SENATE—*Tuesday, August 11, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 9:15 a.m., and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

The PRESIDING OFFICER. Today's prayer will be offered by the guest chaplain, the Reverend R. Richard Edgar, pastor of the Reality Gospel Church, Alexandria, VA.

PRAYER

The Reverend Richard Edgar, pastor of the Reality Gospel Church, Alexandria, VA, offered the following prayer:

Let us pray:

O, Lord, our God, how majestic is Your name in all the Earth. Each one has entered into this House today with visions and anticipations of the future of our Nation. Without vision, You said, we perish.

Place in our hearts those graces, patience, and stamina to follow in new paths, to see the new, shimmering horizons that beckon us. Give us courage and guidance to follow.

Let there be a new awakening in us that what we do here is passed on to our children and our children's children. So will You, Almighty God, encompass our beings with life, with love, and with hope.

Give us a teachable attitude, a humble heart, and let thankfulness survive in us, and let us not be weary in well doing: For in due season we shall reap if we faint not.

Thine, O Lord, is the greatness, and power, and the glory, and the victory, and the majesty: For all that is in the heavens and in the Earth is Thine.

Now, therefore, our God, we thank Thee and praise Thy glorious name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 11, 1992.

To the Senate:

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later today.

FAMILY AND MEDICAL LEAVE ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now proceed to the consideration of the conference report accompanying S. 5, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The ACTING PRESIDENT pro tempore. Under the previous order, the conference report is agreed to.

So the conference report was agreed to.

The ACTING PRESIDENT pro tempore. There will now be 30 minutes under the control of the Senator from Connecticut [Mr. DODD] or his designee; 10 minutes under the control of the Republican leader, or his designee; and 5 minutes under the control of the Senator from Virginia [Mr. WARNER].

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that the following staff members of the Subcommittee on Children and Family be granted floor privileges during the consideration of the conference report on S. 5: Trammell Alexander, Anne Ford, and Judy Ezzell.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise this morning to speak on behalf of this conference, S. 5, known as the Family and Medical Leave Act of 1992.

Last October, the Senate approved, by more than a two-thirds margin, this critical measure to provide short-term job security for working parents in times of family or medical emergencies.

There is a lot of talk these days in the Halls of Congress and on the campaign trail about helping working families—families who have lost hundreds of thousands of jobs in the worst economic downturn since the Great Depression; families who look at unemployed neighbors and wonder if their jobs are next; families who ask themselves how they would care for a child or an elderly parent who suddenly becomes ill; families who, for the first time in generations, cannot count on a better life for their children.

So far, all these families have heard from Washington, quite frankly, Mr. President, is talk. Despite the rhetoric, despite all the speeches and the promises, I believe that we have failed to provide the real solutions to the real problems that average families face every single day.

Mr. President, now is the time. It is time to replace family values rhetoric with real policies that truly value families. It is time to say no to big business lobbyists and yes to hard-pressed working parents; it is time to show that we can be pro business and pro family at the same time.

The American family has changed. It has changed dramatically over the last number of years. And fortunately Government, with this legislation, recognizes that change and tries to do something about it. The Family and Medical Leave Act is an idea whose time is long overdue. In America today, life is a daily struggle to balance the competing demands of work and family responsibilities.

Two-thirds of all women with children work full time. Let me repeat that, Mr. President. Two-thirds of all women with children are working full time today in America's economy. One-quarter of all children live with a single parent. Millions of three-generation households now care for elderly parents. And almost 1 million women care for their parents and children while working full time.

Take Jeanne, from western Connecticut. She was forced to give up a $35,000 annual salary when her employer denied a request for leave to care for a newly adopted daughter. Jeanne returned to the job market 2 months later, only to find her options limited to jobs that paid one-third of her original salary. After months of emotional and financial stress, Jeanne's marriage ended in divorce.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Or take Carmen, from Chicago, IL; a single mother of three. Carmen lost her job of 19 years as a pharmacy technician when she needed to have leave to recover from a very difficult pregnancy and to care for a newborn child with Down's syndrome. After two decades, 20 years of bringing home a paycheck, Carmen was forced onto the welfare rolls just to feed her children.

Or take Sandra, from a small town in Wisconsin. When her 82-year-old father had two serious heart attacks Sandra's employer refused her request for 1 week—1 week—of unpaid leave to help care for her father. Ironically, Sandra was offered 3 days' leave, should her father die. That was part of the policy. But no time for the chance to comfort her mother or to help the nurse and help her father back to health.

For these families and thousands like them, the Family and Medical Leave Act of 1992 provides an answer. If you need time off to care for a new child or care for a sick child or an elderly parent, your job and your health insurance will be there when you return.

With technical and conforming changes, the conference report that we have just adopted is the same legislation that we approved last October by a more than two-thirds margin. This legislation ensures up to 12 weeks of unpaid leave for the birth or adoption of a child or the serious illness of an immediate family member: yourself, your child, your spouse, or your elderly parent.

Small businesses are exempt completely and strong protections have been included for those employers covered by the legislation. It is a simple but compelling idea: Job security during a key family crisis that can remove the primary breadwinner from the labor force and cripple a family's economic security. This legislation is the product of more than a dozen congressional hearings and countless discussions with business people and State officials from around the country.

We have amassed strong and convincing evidence that a national family leave law is not only good public policy, but it also makes good business sense.

According to a recent study conducted by the Small Business Administration—and I quote from that report, Mr. President:

> The net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee.

This SBA study, commissioned and paid for by the Bush administration, pegged the cost of family leave at less than 2 cents—at less than 2 cents—per covered employee per day without even factoring in employer savings from reductions in terminations costs.

Another recent study commissioned by the Ford Foundation examined employer practices in four States that have enacted family leave policies. Nine out of ten employers in those four States reported that the laws were easy to implement and that they were not forced to provide fewer health benefits. Eight out of ten employers reported no increase in training or unemployment insurance costs.

Aetna Life & Casualty Co., one of the largest employers in my State of Connecticut, recently reported that its family leave program saved them $2 million each year in reduced employee turnover and lower hiring and training costs. Prior to implementing its policy, only 77 percent of Aetna's female employees returned to work after child birth. Now 91 percent of those who take family leave return to their jobs.

Across the country, employers with leave policies in place report tremendous savings in terms of employee training, productivity, loyalty, and reduced absenteeism.

States with family leave laws report minimal costs for enforcement, minimal costs to businesses, and an improved atmosphere of labor-management cooperation. Most important of all, I believe we have put to rest once and for all the specious argument put before us by Washington lobbyists, and that is that the evidence is clear and unequivocal, employers simply do not take away other employee benefits when a family leave policy is put in place.

Almost 4 years ago, in September of 1988, a prominent national leader stood at a podium in Rockford, IL. He said:

> We need to assure that women do not have to worry about getting their jobs back after having a child or caring for a child during a serious illness.

That is a statement that I would be proud to call my own. It promotes family leave as a right, not a privilege; a guarantee that every working parent should and must have. I am sad to say, however, that this remark belongs to President Bush, the same man who vetoed this bill in 1990 and who has threatened a veto again this year. American families read the President's lips but so far he has offered only lip service in return.

The President talks about family values but fights a policy that values families.

He would deny a woman's right to choose but rejects a bill that promotes adoption and provides real options for women who must work and raise children at the same time.

He talks about the health insurance crisis but will not protect those who could lose their coverage, now, during a family or medical emergency.

He reports welfare reform but rejects the bill that would enable low-income, single parents to raise their children and be productive working members of our society.

Over the next 3 months the President will have the chance to make an old campaign promise made in Rockford, IL, in September 1988—he will have a chance to make that promise and that commitment made on that day a reality in the new law of this land; a chance to place the needs of American families ahead of the big business lobby's narrow political agenda; a chance, in his words, Mr. President, to assure that working parents never again are forced to choose between the jobs they need and the families that they love. I hope the President will not let this opportunity pass him by.

Mr. President, I reserve the remainder of my time and yield whatever time the majority leader needs.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, today the Senate will pass the Family and Medical Leave Act. That is the result of a lot of hard work by a lot of people. But no person deserves credit for this significant action more than the Senator from Connecticut. With great perseverance, with deep commitment, and with a tremendous effort at leadership, the Senator from Connecticut [Mr. DODD] has led the way to passage of this important legislation. He deserves the gratitude of every American family because job protection during times of childbirth and family illness is important to every American family.

Too many women have been forced to make a painful choice between the economic imperative of working to supplement their family's income and the anxiety of caring for a seriously ill child. We ought not force women to choose between their job and their families. The Family and Medical Leave Act will strengthen families. Well over half of American women do not have maternity leave. Well over half of American parents do not have leave to care for seriously or even terminally ill children. Very little consideration is given to those working adults who are also caring for their aging parents.

Poll after poll shows that the American people want a Family and Medical Leave Act. Americans want to know that they have some basic job protection during times of family crisis. A substantial majority of House Members are on record as supporting this legislation. The same is true in the Senate. What is preventing this legislation from enactment is the threat of a veto by the President. That is truly regrettable. Family leave ought not be a partisan issue. To know the worker has the flexibility to take care of a newborn child or to take care of an ailing parent without the fear of losing a job ought not to be remarkable. It really ought not to require a law. It ought to be a matter of course.

This legislation will strengthen families. Those who believe in family values should be supporting this family legislation. It will provide job security to those who need it most. I urge the

President to reverse his position and sign this bill into law.

Mr. President, I want to close, as I began, by commending Senator DODD for his truly outstanding leadership, his patience and perseverance and, most of all, his deep commitment to the kind of values that I believe are important for American families.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the majority leader for his very generous remarks and thank him for his support. I will be glad to yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I see my good friend, Senator BOND, on the floor. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 16 minutes and 40 seconds left.

Mr. KENNEDY. Mr. President, first of all, all of us on the Labor and Human Resources Committee want to express our appreciation to the majority leader for his cooperation on this legislation. The struggle to provide family and medical leave to all working Americans has been a long and continuing journey, and we appreciate his cooperation in scheduling this matter, as well as his strong support for the legislation itself. He has been enormously helpful.

I also want to join in commending my good friend, the Senator from Connecticut [Mr. DODD] for bringing us to where we are today. This has been a 7-year effort. We must not forget the hundreds of hours of hearings that were held all across the country in the early days, when this legislation was being fashioned. The step the Senate takes today is enormously important, ensuring continued progress toward achieving the goals of this legislation, but we must remain mindful of all the steps that have been taken in the past.

I also want to express appreciation to our Republican colleagues and friends who have supported this legislation. As the Senator from Connecticut has pointed out many times, the effort to enact family and medical leave has been a bipartisan effort in the Senate as well as the House. We would never have been able to get as far as we have without their support, and I think it is important to note that fact.

Mr. President, this legislation is enormously important and it deserves to become law this year. Every year that goes by without this legislation, tens of thousands of families are put through the enormous personal tragedy of having to decide to risk their job or ignore the needs of a family member who is seriously ill.

The extraordinary fact is that individuals who lose their jobs under those circumstances often lose their health care benefits as well. While these individuals are trying to cope with an enormous emotional trauma, they lose their jobs, and they lose their health insurance—just when they most need it.

It is difficult, I think, for many of us to recognize that this is happening across this country, but it is happening. It may not happen to employees of the U.S. Senate. As I have mentioned on other occasions, I had the opportunity to take family leave from the U.S. Senate when my son, Teddy, who lost his leg to cancer, needed a 2-year chemotherapy treatment, every 3 weeks for a period of 3 days. I was able to take leave. No one was threatening to cut off my health insurance; no one was threatening to take away my job. It was absolutely indispensable that I take that leave, and it meant the world to both my son and to myself.

Countless Members of this body, as well as the House of Representatives have faced a similar situation. Nonetheless, we still have to fight to try and achieve this right for the working men and women of this country.

As has been pointed out and as I will discuss more extensively later in my remarks, Mr. President, this is neither an expensive nor a burdensome bill. The record indicates quite clearly that companies that currently provide leave are able to deal with the administrative challenges which providing such leave may present, and that the estimates that were given earlier about the cost of this program were not based upon real-life experience.

Yet by not enacting this family and medical leave law, we are putting additional burdens on our taxpayers, who must pay the increased costs of welfare, unemployment compensation, Medicaid, food stamps, and all the other programs that workers who lose their jobs because they lack job-guaranteed leave must turn to. The cost to taxpayers is not unimportant. It is not the major reason this legislation should go into effect, but it is something that we ought to carefully consider.

Finally, Mr. President, the value of this legislation in terms of relieving the anxiety that parents feel during a time of family crisis is immeasurable. While this benefit cannot be valued in terms of dollars and cents, the relief it offers those families from intense anxiety, fear, and frustration is of enormous importance.

It is gratifying Congress is finally completing consideration of the Family and Medical Leave Act. Working Americans have waited far too long for this very important piece of legislation.

The Family and Medical Leave Act stands for a basic principle. It embodies a national consensus that no worker should be forced to choose between caring for their loved ones and keeping their job. When a child is born or a serious illness strikes a family member, working Americans should be guaranteed the right to take a reasonable amount of time off, without fear that they will lose their job.

Despite the controversy surrounding it, the requirements of this legislation are neither burdensome nor expensive. The act requires firms to permit employees to take up to 12 weeks a year of unpaid leave if they are seriously ill themselves, if they need time off from their job to care for a new baby or a newly adopted child, or if an immediate family member is seriously ill.

The bill also requires that employers continue providing regular health benefits for workers who take family or medical leave, since such benefits may be especially important during that period.

The conference agreement is identical in most respect to the substitute amendment adopted by the Senate last October by a vote of 65 to 32. It differs from that bill in three respects. First, it adds the requirement that leave to care for a newborn child must be in order to care for the child. Second, it makes several changes to title II to make it more consistent with other laws on Federal employees. Third, it improves the coverage of Senate employees by incorporating the enforcement mechanism in last year's Civil Rights Act.

Like the bill passed by the Senate last fall, the conference report contains an extensive series of provisions to protect employers and ensure that the right to leave is not abused:

It exempts firms with 50 or fewer employees—approximately 95 percent of all businesses.

Leave must be provided only to employees who have worked for the firm for at least a year, and who worked at least 1,250 hours during that year.

It permits employers to deny leave to key employees.

It allows employers to recover health premiums, if an employee chooses not to return to work at the end of the leave period.

It requires employees to provide 30 days' notice for foreseeable leaves, to make a reasonable effort to schedule planned medical treatments so as not to disrupt the firm, and to provide medical certifications; employers may require a second medical opinion and reasonable subsequent recertifications.

It allows a firm to transfer an employee who intends to take intermittent leave to an equivalent alternative position.

It allows a firm to require employees to substitute accrued paid leave for any portion of the 12-week unpaid leave.

The bill also contains a limited damages remedy. It incorporates enforcement provisions parallel to the Fair Labor Standards Act, to encourage the resolution of claims in administrative rather than judicial proceedings. It restricts damages to double the amount

of lost wages or actual monetary losses. It further limits damages against employers who act in good faith and have reasonable grounds to believe their actions did not violate the act.

A GAO cost estimate confirms that the act will not unduly burden employers. GAO estimates that the total cost of the legislation will be only about $5.30 per covered employee per year.

The estimate does not even take into account the significant benefits to the employer of providing leave, such as reduced turnover, improved employee morale and a more experienced, loyal, and committed work force.

As researchers from Cornell University and the University and the University of Connecticut have concluded:

> The net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee. Therefore, while there will be costs to firms of mandating leave by the Federal Government, these costs will be relatively small as compared to the cost of terminating the worker who desires the leave.

The conclusion that providing family and medical leave is neither burdensome nor costly is supported by the experience of employers in States that have already enacted family leave.

According to a study commissioned by the Ford Foundation and undertaken by the Families and Work Institute: 91 percent of employers in four States reported that the State laws were not difficult to implement; 93 percent reported that the State laws had not forced them to provide fewer health benefits; 73 percent reported that the laws had not resulted in an increase in health benefit costs; and a majority reported that the laws resulted in no change in training costs, unemployment insurance costs, or administrative costs.

As I mentioned briefly earlier, providing reasonable job-protected family and medical leave is not costly. But ignoring the need for such leave is. A 1990 study by the Institute for Women's Policy Research found that workers who become seriously ill and who lack job-protected medical leave suffer $12.2 billion in lost earnings annually. Working women lose another $607 million due to lack of parental leave. Taxpayers pay an additional $4.4 billion annually in welfare, unemployment compensation, food stamps, and Medicaid payments to workers who lose their jobs due to the lack of job-guaranteed leave.

Enligtened employers already recognize the benefits that flow from adopting a responsible family and medical leave policy. Indeed, some provide more generous leave than is required by this bill. Since 1988, Aetna Life & Casualty Co. has provided workers with up to 6 months of unpaid family leave a year, with continued benefits and seniority. Aetna reports that its program saved the company $2 million in 1991, by cutting down employee turnover and reducing costs for hiring and training.

But far too many working families continue to suffer because of the lack of a reasonable family and medical leave law.

The vast majority of men and women are denied reasonable leave to care for a newborn child. A 1990 study by the Bureau of Labor Statistics found that only 37 percent of female employees in firms with 100 or more workers had maternity leave, and a 1991 BLS study found that only 14 percent of women in firms with fewer than 100 workers had such leave. Even in the Nation's largest companies, more than half of all workers lack maternity leave beyond a basic maternity-as-disability period—typically 6 weeks.

Even fewer men have the right to take time off from work to care for their newborn children. A 1988 study found that only 14 percent of companies had a formal paternity leave policy.

A 1990 BLS study found that only 18 percent of fathers at medium and large firms are covered by an unpaid paternity leave policy, and only 6 percent of fathers at small firms had the right to take leave.

The situation is even more grim for medical leave. According to the Chamber of Commerce, 82 percent of employers provide no leave to care for a sick child. A 1988 study found that 86 percent provide no leave to care for a sick parent. Even where leave is provided, it often consists of only a few weeks a year—not the 12 weeks provided in this legislation, and not enough time off to deal realistically with many serious illnesses.

The vast majority of Americans believe in family leave and expect Congress to do something to correct the current shortsighted situation. In poll after poll, 70 to 80 percent of those asked, support Federal legislation guaranteeing unpaid, job-protected leave to care for a new child or a seriously ill family member.

It is not enough to say that workers and employers should negotiate over family and medical leave. Workers deserve such leave as a basic right, on par with basic guarantees like the minimum wage, health, and safety on the job, and other fair labor standards.

I join with the majority leader and the Senate from Connecticut in urging the Senate to pass this measure, and to vote to override President Bush's veto if he continues to maintain his irresponsible ideological opposition to this fundamental right. No workers in this day and age should be forced to choose between the job they need and the child or parent they love. And no humane society would ask them to make that choice.

Mr. President, I yield back the remainder of my time.

Mr. DODD. Mr. President, I want to thank the Senator from Massachusetts. We would not be here at all without his support and the backing of the committee, during, as he put it, the 7-year battle on this measure. I would be terribly remiss if I did not commend him for the help he and his staff have given us over the years.

I yield 3 minutes to the Senator from Missouri.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I express my thanks to my colleague and friend from Connecticut.

Over these past few years we have heard many people discussing the family, family values and how we must strengthen the family. As one who believes that for far too long government has ignored the importance of families, or worse yet, has created policies more likely to break them up than keep them together, I welcome this discussion.

Many of the problems facing society today can be attributed to the weakening of the American family. Drugs, violence, crime, declining educational performance, and poverty can be traced back to an empty childhood or a shattered family. There is a great need to strengthen the American family by reinforcing the bond and sense of responsibility between parents and children.

Of all the efforts and initiatives that I have been involved in since coming to the Senate, none have been more important to me than my efforts in the area of family preservation and children's issues.

Thus for the past several years, working with organizations in Missouri as well as interested individuals I have been actively pushing a series of reforms and new policies designed for the sole purpose of keeping families together.

I believe that programs to help children and families are long-term investments by today's generation that will brighten the future of our Nation. I believe that our solutions should be preventive rather than reactive. We must address the root causes of problems rather than simply applying Band-Aids to deep cuts.

America's children hold the key to our long-term prosperity. They will share America in the years to come and affect the progress of our country. The motivation and the capacity to learn start from birth and need constant attention. Parental involvement in the education of their children is the single most important factor in ensuring long-term academic success for youngsters. Parents are their children's first and most influential teachers. As Governor, I established Missouri's statewide parents as teachers program, making Missouri the first in the Nation. It is designed to assist parents in fostering their children's language

cognitive and motor development skills, and to provide advice to parents on what to expect at each stage of a child's development. Because of the program's success, 35 other States have used the Missouri model to develop their own programs.

Recently, I worked with the St. Louis Salvation Army to create a new, innovative housing and counseling center to address the needs of homeless families with children to get them out of the emergency shelters and into a program to rehabilitate their lives.

With the Senator from Maryland [Ms. MIKULSKI] I worked on getting the new family unification program up and running. This will help keeps kids out of foster care who would otherwise be split up because of housing deficiencies and reunite other families already split up because the lacked affordable housing. This is an extremely important program, and I am proud to be associated with it.

But while all these efforts are important I believe the single most important step we can take to help all families in America, is by taking steps to reinstill individual and family responsibility. And to do that, we as a society need to make family obligation something we encourage rather than discourage. That's why I believe we should pass and the President should sign into law the Family and Medical Leave Act we have before us today.

As a society we should never force a parent to choose between a sick child and her or his job.

We should never force a parent to choose between caring for an aged parent and a job.

And we should never force a mother to leave her newborn days after its birth in order to stay employed.

That is why I developed the compromise before us today, which I believe is reasonable that is why I so strongly support this conference report, and that is why I will continue to urge the President to support this bill.

Mr. President, some may feel this issue is about mandates. But I believe it is much more about the strong signal that as a society we place a very high value on parenting and family obligation.

The workplace of the nineties cannot live by the rules of the 1950's. The fact is that more mothers of young children, even infants, work outside the home than ever before. In 1988, married women with young children comprised the majority of new entrants in to the labor force. More than half of women with young infants return to work outside the home within a year of their child's birth. And contrary to what some may have you believe, it is not necessarily out of choice—it simply takes two incomes to pay the bills.

To prove my point: We know that more than two-thirds of women in the work force today are either single parents or have husbands who earn less than $18,000 per year. The fact is a family of three or four cannot live comfortably on under $18,000 per year in most parts of this country. Surveys show us that many married couples would choose to have one person stay home full time if money were not an object, but it is.

So what happens when a family faces an emergency, an illness, or unexpected chance to adopt, but both partners work? Well, they had better hope they have an understanding employer. A 1990 Bureau of Labor Statistic study found that only 37 percent of female employees have maternity leave. And of the Fortune 1,500 companies, where one might expect the best coverage of workers, only half offered parental leave beyond the standard 6-week maternity as disability period.

Paternity leave is extremely scarce. A 1990 Bureau of Labor Statistics study found that only 18 percent of fathers at medium and large firms are covered by unpaid paternity leave.

According to the Chamber of Commerce, 82 percent of employers provide no leave to care for sick children.

And if an employee is sick himself or herself, there is a good chance that he or she works for a company that does not even provide sick leave.

That is why this bill is vital. During that unforeseen family emergency, we want our Nation's parents to think about their family's wellbeing, and not also worry about whether their job will be there when their youngster gets out of the hospital.

Mr. President, I have thought long and hard about these issues, and I believe the compromise developed with Senator DODD last year, which is now embodied in the conference report, is important, necessary, and should be signed into law.

As a society we should never force a parent to choose between a sick child and her or his job.

We should never force a parent to choose between caring for an aged parent and a job.

We should never force a mother to leave her newborn days after its birth in order to stay employed.

And by all means, if we believe in family values, we should encourage a policy of family obligation when at all possible.

Mr. President, I urge my colleagues to do the right thing and vote to get this conference report to the President.

Mr. DODD. Mr. President, before the Senator from Missouri leaves the floor, I want to make it abundantly clear—I mentioned the tremendous support provided by the Senator from Massachusetts, the chairman of the committee—without the efforts of the Senator from Missouri in building a compromise position, we would never have achieved the level of support we did. We might have passed the bill, but I think it would have been a narrow passage. That 68 Members of this body support the family and medical leave legislation in no small measure is due to the efforts of the Senator from Missouri. I am deeply grateful and appreciate of his efforts.

I want to make the same comment of the Senator from Indiana, who is the ranking minority member on the subcommittee. Senator COATS was with me through the hearing process. He has been tremendously supportive, again, good ideas, good suggestions, a far better bill because of his involvement and making a couple of additions to the legislation that I think strengthened the idea and made it more acceptable to a broader spectrum of people, and I am deeply grateful to him.

I will yield 3 minutes to the Senator from Indiana.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank my colleague for yielding the time and for his assistance and leadership in this important issue.

Each year, increasing numbers of mothers are forced into the workplace by family financial pressures. Today, about two-thirds of the Nation's adult women are in the work force, and over half of the mothers with children are employed full-time for some portion of the year. Two-thirds of the new entrants into the work force between now and the year 2000 will be women, most in their childbearing years. Clearly, one of the tasks we face as a Nation is to reconcile the conflicting needs of parents, work, and children.

I support S. 5, the family and medical leave bill. I do so however recognizing that the business community has legitimate concerns, many of which have been addresses in this legislation. However, I want to again express, as I have on several occasions, my desire to continue to work with the business community to encourage the development of, and Federal support for more flexible work arrangements. These policies include, but are not limited to preferential rehire, flex time, telecommuting, and home based employment. These are policies, which, coupled with a reasonable leave package like the one we are voting out today, assure that no family will be forced to choose between work and a child.

While this legislation is not a perfect solution, indeed, I had hoped for many years that it would not have been necessary, it represents a sincere attempt to address the needs of business and working families. To remain competitive in the global economy, to recruit and retain good employees and to improve productivity, particularly in a time of growing labor shortages, employers have already recognized the need to offer more attractive benefits to its employees. Many already offer

plans similar to the one in this legislation and those employers should be commended. However, there are those employers who have policies that are not only unfavorable to families, but are actually hostile toward families. Those are the employers we are trying to reach with this legislation.

There is no substitute for the love, care and concern that a parent can give to its child. We need a Federal policy that recognizes the fact that children need their parents to be intimately involved in their lives, not just during the first 12 weeks after birth, but for many years after. We as a nation should support families and encourage parents to spend more time with their children. A parent should never be forced to choose between their children and economic survival. Yet, without a family leave policy we will force many families to do just that.

Mr. President, few can argue with the concept that mothers need to spend time with their newborn children. Few, if any, can argue the concept that mothers and fathers need to spend time with a critically sick or ill child or that working men and women need to spend time with critically ill and dying parents.

These are some of the most important and critical times of life. Few can argue that that should be interrupted or that a choice should be forced upon that individual between job and family. Strengthening the American family ought to be one of our top, if not the top, goals that we as a society face because the family provides so much of what society needs in dealing with the many problems that all of us face on a day-to-day basis.

So I support S. 5, the family and medical leave bill because the concept that it advances is a very valid concept. Throughout this process, there were very legitimate concerns raised by business about the impact of this bill on their business.

I find to my astonishment that most businesses and business people today think of this bill as the bill that was originally introduced 3 or 4 years ago. There have been very substantial modifications. With the support and help of the Senator from Connecticut, with the very able assistance and leadership of the Senator from Missouri, and others, there has been a significant recognition of the very legitimate concerns raised by business relative to potential abuses in this bill.

I have with me a two-page addendum of changes that were made to the bill to accommodate those legitimate business concerns. So what we have before us today is truly a compromise that takes a very valid concept, recognizes legitimate concerns, and melds the two together.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. COATS. It is an effective bill. I am pleased to support it.

Mr. DODD. How much time does the Senator from Connecticut have?

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 3 minutes 15 seconds.

Mr. DODD. Mr. President, I would like to reserve the remainder of my time. There is 10 minutes, I believe for the Republican leader, is that correct?

The ACTING PRESIDENT pro tempore. The Republican leader has 15 minutes.

Mr. DODD. I am not sure whether or not the Republican leader or others are going to come to the floor, but I would like to reserve at least a minute or two of my time at the end to rebut any comments from the opposition.

Granted, the opposition is very small in this body; only a handful of people oppose this legislation, but if they wish to be heard on this, now would certainly be the time to do so.

Let me yield 2 minutes to my colleague from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut has 2 minutes 30 seconds remaining.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senator from Ohio be permitted to speak for 5 minutes without it being charged to either side.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise in support of this conference report on family medical leave. I was both an original cosponsor and I was a Senate conferee. But the man who really gets so much of the credit for this legislation is the Senator who sits to my right, Senator DODD, because his steadfast leadership on this critical issue for working families has been just a privilege to behold. He has been there constantly, resolutely, and without him it never would have come to pass.

Frankly, this legislation should have been signed into law years ago. But, regrettably, President Bush vetoed it. We have heard a lot of talk from the administration about family values, but when the President had a chance actually to do something for America's working families, he turned out one of the thousand lights about which he had spoken previously.

In the past two decades, we have witnessed profound changes in the American working family. It is totally different than that which it was 30 years ago. Today, most American families cannot survive on just one income. Both parents have to work just to put food on the table and pay the rent for a roof over their heads.

The President says he favors voluntary but not mandatory leave. But the reality is that most of corporate America has not responded to this revolutionary change. Even in the biggest companies only half of all the working mothers have adequate maternity leave. Roughly, a third of American businesses provide no sick leave at all, and only 14 percent of American businesses provide spousal or elder care leave.

Workers are all too often faced with an agonizing choice between their job and their family. No worker should lose a job because he or she needs to take a few days or a few weeks off to care for a newborn infant, a sick child or dying parent or spouse.

Let us not kid ourselves. It is low-income workers who are most likely to have no leave. It is low-income families who are most dependent on two wage earners, and it is they who stand to lose the most when they lose a job because they have to care for a sick family member.

The administration's opposition to this legislation is absurd.

First, let us remember this bill provides only unpaid leave—not paid leave, unpaid leave. In a study of States that already require family and medical leave, 91 percent of employers said the requirements were not difficult to implement. And under the bill's small business exemption, 95 percent of the businesses in this country would not even be covered, leaving over 60 percent of the work force unprotected. This bill ought to protect all workers but not just in arbitrary fashion. But I recognize that compromise is part of the legislative process and it is a major step in the right direction.

The pro family legislation is a matter of basic human decency. Over 70 percent of Americans support it, as did 68 Members of this body.

I urge the President to come to his senses and sign this legislation when it comes across his desk. It will be a better country. We will be a better Nation if he does so.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DODD. Mr. President, I will yield my time after the minority has come in to speak in opposition.

I ask unanimous consent that the vote tally that occurred in October of last year, that reflects the 65 to 32 outcome of that recorded vote in the Senate, be printed in the RECORD.

Second, Mr. President, I ask unanimous consent that the names of those Members who were unavoidably absent that day, but who support the legislation, be included as well in the RECORD.

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

[Rollcall Vote No. 216 Leg.]

YEAS—32

Brown, Burns, Cochran, Craig, Dole, Domenici, Durenberger, Garn, Gorton, Gramm, Grassley, Hatch, Heflin, Helms, Kasten, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Pressler, Rudman, Sey-

mour, Simpson, Smith, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS—65

Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Bond, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Chafee, Coats, Cohen, Conrad, Cranston, D'Amato, Danforth, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Hatfield, Hollings, Inouye, Jeffords, Johnston, Kassebaum, Kennedy, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Packwood, Pell, Reid, Riegle, Robb, Rockefeller, Roth, Sanford, Sarbanes, Sasser, Shelby, Simon, Specter, Wellstone, Wirth, Wofford.

NOT VOTING—3

Harkin, Kerrey, Pryor.

Mr. DODD. Mr. President, while waiting for the opposition to appear on this bill, I would just reemphasize these points.

It has been 7 years, almost, since this legislation was first introduced. It has been a long and arduous fight. It is a better bill, I think, today than it was when we first introduced it, because the hearing process and the conversations with others have improved it and made it a stronger piece of legislation.

Mr. President, we have a lot of talk about change. Change seems to be the password this year that will get you into any audience in this country, and will get you the opportunity for people to listen to you. Here is a chance to actually really do something about change; to really make a difference in average people's lives.

There is a real problem for people, trying to balance work responsibilities and family responsibilities. Not a single person in this body does not understand what that means. It is very difficult today for families. All we are saying is exhaust all your other benefits; but when you have exhausted them all, and you have a family crisis of significant proportions, you should not lose your job. You should not lose your health insurance. We will not pay you for those 12 weeks, but you have at least an equivalent job to come back to at the end of that family crisis.

That is all we are trying to do with this legislation. I used to make the speech that we were only one of two industrialized countries in the world that did not have a family and medical leave policy. I can no longer make that statement. South Africa has now adopted a family and medical leave policy. We are the only industrialized nation in the world that does not recognize the difficult burdens of trying to be a good employee, a good parent, a good spouse, a good child, and taking care of the elderly parent.

Mr. President, I urge the President, I hope the President will reverse the view that he has maintained and sign this legislation into law, and really do something for change.

The ACTING PRESIDENT pro tempore. The Senator from Kansas, the Republican leader, is recognized.

Mr. DOLE. Mr. President, do I have 15 minutes?

The ACTING PRESIDENT pro tempore. The Republican leader has 15 minutes.

Mr. DOLE. Mr. President, I do not think I will use 15 minutes. Two of my colleagues are unable to be here at the moment. My colleague from Kansas, Senator KASSEBAUM, and the Senator from Mississippi, Senator COCHRAN, are tied up in committee meetings.

I will just take a few moments.

Mr. President, there is no controversy here over whether family leave is good or not. I strongly support such programs and believe that they have served—and will continue to serve—a very important role in the workplace where more and more American families find both parents out of the home.

For similar reasons, Mr. President, I also support health insurance benefits, disability plans, life insurance, vacation, sick leave, maternity leave programs, training and continuing education programs, and all the other infinite types of programs and benefits that the employers of this Nation voluntarily provide to their work force.

But this is not the issue.

The debate is not whether family leave is a good idea. If that were the issue the vote would always be unanimous in support of such programs.

Instead, what we are really deciding is whether the Government knows best how to spend everyone's benefit dollars.

FLEXIBILITY VERSUS MANDATE

I keep saying that the old liberals never die. I keep reading about all the changes in the Democratic Party. But the change is for more government, more programs, more mandates, telling people what to do all over America. That is not the change that I understand the American worker or the American employer want.

That is what they are going to continue to receive from those who think the Government knows best—the Government can tell us what to do, the Government has one size that fits all.

So it seems to me that this approach is the fatal flaw of this legislation.

While we live in an era of freedom of choice, where employees and employers bargain over their salaries and benefit packages as best meets their collective and individual needs, we have before us a conference report which says "one size fits all."

Regardless of whether you are single or married, whether you have children, whether your children are infants or grown up, whether your family is healthy or sick, whether your parents are dead or alive, you will get family and medical leave to the detriment of benefits better suited to your own personal needs and desires. You may not want that mix of benefits, but you are going to get it if a bill like this should pass.

For younger workers, their priority may be child care and life insurance; for older workers, it may be pension benefits and retiree health benefits.

And the response of the proponents of this legislation to this preemption of individual choice and flexibility is: Too bad, Washington knows best, as always.

MANDATES HARM BUSINESS AND WORKERS

We can fix it for you. We fix everything in Washington. We raise your taxes, we raise the deficit, we have more regulations, so we can give you more mandates and tell your employer what to do in Topeka, KS, or wherever it may be in America.

I do not dispute the good intentions of the sponsors of this legislation. Everybody wants to do good. But some think the Government is the only one who knows how we do good—that we cannot do good through the private sector.

Well, Mr. President, this is one of those cases where Washington does not know best.

It is a basic fact of life that business can allocate only a specific amount of money for benefits. Like the Federal Government and State governments, they have projections and budgets. But in the businesses, they have to meet their budget or they go out of business. We just charge it to our children and our grandchildren. We have been doing that to the tune of about $4.2 trillion now, and the deficit is getting bigger and bigger.

And part of those projections and budgets of businesses is how much they will spend on salaries and how much they will spend on benefits.

So if we are going to spend more on benefits, we will probably spend less on salaries.

The real world impact of this well-intentioned legislation—this mandate—is that employers will revisit those projections and budgets and cut back on something else, including creating new jobs at the very time that we need new jobs.

A recent poll by the Gallup organization—a pretty good organization—of over 950 small businesses indicated that if this bill were to become law, more than half of small firms would establish stricter personnel policies and cut back employee benefits such as paid vacations and health insurance.

So, although we are hearing in the speeches today that this conference report is a win-win for everybody, it is more of a lose-lose.

It is a bad law for business which is trying to emerge from the recession and gets hit with this hidden tax.

This is another tax. Do not kid anybody. When you have a mandate that says you have to do A, B, or C, that is another tax on business.

It is a bad law for workers and their families who are able to negotiate this much less of their benefit package on

their own. They will have fewer options.

And it is a bad law for those workers and their families who do not fit within this one-size-fits-all mandate. They are the real losers under this conference report for they are the ones forced to subsidize benefits for others.

In this connection, Mr. President, I might add that another Gallup poll found that only 1 percent of 1,000 respondents listed parental leave as their most valuable employee benefit.

And a January 1991 Penn & Shoen survey found that 89 percent of 1,000 respondents preferred that employee benefits be decided privately between employers and employees rather than mandated by the Federal Government.

LEGISLATION WILL BE VETOED

Mr. President, President Bush has repeatedly made clear his intention to veto this legislation.

He strongly supports family leave programs. He does not support universal mandates that treat everyone the same when in fact we are all very different.

I also ask unanimous consent that an editorial which appeared in USA Today on August 10, 1992, be included in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, this piece further underscores the point that with States and businesses taking an aggressive lead on family and medical leave benefits, Congress should step aside. The Government ought to get out of the way.

As with other benefits like health insurance, vacation, and sick leave, family and medical leave is charting its own course in the employment market.

No good, and perhaps a great deal of harm, can only come from this unnecessary congressional intervention.

EXHIBIT 1

NO TO FAMILY LEAVE BILL

With states and business taking the lead on family leave, the federal government should step aside.

Family leave is a terrific concept that could turn into a not-so-hot federal law. But Congress wants you to have one anyway.

A bill near nearing passage and favored by Democratic presidential candidate Bill Clinton would require employers with more than 50 workers to offer up to 12 weeks of unpaid leave per year for the birth or adoption of a child or the serious illness of the employee or an immediate family member. Other benefits would continue, and workers would be entitled to the same or comparable jobs when they returned.

This is a ham-handed way to speed up a process that's well under way. President Bush is right to threaten a veto.

Only 5% of employers and 50% of workers would be covered. And satisfying an inflexible federal mandate takes away money businesses might use for benefits workers prefer, such as day care.

Worse, the idea comes at a time when companies and states are finding solutions for themselves. Most companies already provide some family leave—some more and some less than Congress proposes—not just because it's good-hearted, but because it's good business.

Family leave policies reduce job turnover—a high-priced item for business. Replacing a worker costs an average 1.5 times the employee's annual salary, according to the Families and Work Institute, a non-profit research group.

Aetna Life & Casualty credits its extended family leave policy with a $2 million saving on turnover. Under the new policy, half as many women who took maternity leave left the company.

In addition to company efforts, at least 30 states now require employers to offer family leave, most for pregnancy. More states are considering legislation.

With states and companies designing a range of family leave policies to suit individual circumstances, a federal law is a clumsy nuisance.

Mr. COCHRAN. Mr. President, the Senate should recognize that federally mandated, one size fits all approach, medical and family benefits do not take into account the changing nature and changing needs of an increasingly diverse work force. More and more employees request, and employers more and more provide, flexible, family oriented, medical benefits. The cost of any new federally mandated benefit, including parental and medical leave, will ultimately be paid for by employees through lower wages or the loss of other preferred benefits such as dental coverage or paid prescriptions.

The proponents of federally mandated parental leave have often pointed to Europe where family leave policies are said to be more progressive. Progress, in this instance, is certainly in the eye of the beholder, as the liberal and progressive family leave policies of Austria, Canada, France, Finland, West Germany, Italy, Japan, and Sweden are all financed by those Governments.

Furthermore, Mr. President, European labor markets are often criticized for their rigidities which inhibit adaptation to changing economic, demographic, and competitive situations. Perhaps their adoption of progressive labor policies, such as mandated leave, are part of their problem. If we take the mandated, less flexible approach to employee benefits as the Europeans have, at least we ought to recognize and acknowledge the likely result—fewer jobs and a less competitive economy.

Mr. President, the United States during the 1980's was referred to as the "great American job machine." Between 1980 and 1989, job growth in the United States greatly surpassed job growth in Europe. At the beginning of the decade, employment in Europe surpassed that of the United States, but by 1989, total employment in this country climbed to over 199 million, while European employment rose to only 108 million.

Between 1980 and 1989, the United States generated jobs at a rate four times faster than Europe. Job growth in the United States accounted for slightly over 80 percent of the combined job growth in both the United States and Europe—four out of five jobs generated in both the United States and Europe were in the United States. The United States has been able to provide employment for 63 percent or almost two-thirds of our workage population, compared to only 52 percent, or slightly more than half in Europe.

Mr. President, the mandated parental leave entitlement guaranteed by this legislation is unfair to those employees who neither need nor want it. For example, singles, childless couples, and older workers will have no interest in parental leave and would prefer other uses for their limited benefit dollars.

The marketplace already provides strong incentive for employers to provide appropriate fringe benefits for employees. Employers periodically change their benefit policies to meet the changing needs of the work force and enhance the ability of the company to compete for employees with the talents and skills they require.

Mr. President, current economic conditions are forcing employers to make more efficient and effective use of limited dollars available for employee benefits, to provide the most cost-effective and flexible benefits needed by employees. This legislation, however, would undermine that effort by reducing that flexibility and limiting choice.

We ought also to recognize that labor costs of American companies are rising, and those increasing costs do not reflect escalating wages, but instead reflect the availability and the increasing costs of employee or fringe benefits.

While wages and salaries accounted for 72.7 percent of total compensation in 1989, benefits represented 27.3 percent or more than one-fourth of all compensation. Between 1980 and 1989, real benefit costs increased more than five times the rise in wages and salaries.

Mr. President, mandated benefits in the form of payroll taxes to finance Social Security, workers' compensation, and unemployment insurance constitute the largest cost to employers among the benefit categories, accounting for almost one-third of each benefit dollar. While legally mandated benefits are among the most rapidly increasing components of employee compensation, health insurance costs are also skyrocketing.

Federally mandated parental and medical leave would be one of the first legally mandated benefits not financed through the tax system. The individual employer would bear the entire cost of this benefit. For some companies, other benefits may be reduced to cover

the cost of the new government mandated leave program.

Mr. President, no one, including employers, objects to the provision of parental and medical leave to employees who are in need of it. However, a federally mandated, one size fits all program for every workplace is not the answer to meeting those needs.

PARENTAL LEAVE

Mr. HATCH. Mr. President, let me say right up front that no one on this side of the aisle—and not the President of the United States—opposes family leave. We do not differ with the Senator from Connecticut on the concept of family leave.

Where we disagree is on the method that has been chosen to promote family leave. The legislation before us calls for a mandated, inflexible, one-size-fits-all benefit.

We can argue all day long about the cost estimates; but, the plain fact is that this proposal is not free. To comply with this bill, employers must make adjustments in the benefits they offer workers.

They must continue to pay benefits for employees who are not working. This obviously incurs a cost. As a result, workers may not get the compensation packages they actually prefer because Government has not only required a family leave benefit, but a family leave benefit that measures up to the Federal standard.

So, Mr. President, the first reason Senators should not support S. 5, even in its modified form, is because it is not only a mandate on employers, it is a mandate on workers as well.

The second reason, Mr. President, is that all of this cost shifting is not good for the economy as a whole. Employers must be free of the same kind of rigidities that have plagued the economies of many nations in Europe.

Every new requirement we impose on business renders American industry less able to adapt to changing economic conditions. We become less competitive.

Finally, S. 5 is not the only answer to the problems confronting families. There is an alternative. I believe the American Family Protection Act offers advantages to families that S. 5 does not. This alternative does so in a way that permits maximum flexibility and choice for both employers and workers.

Mr. President, I recognize the diligence of my friend from Connecticut in passing this bill. Particularly since we worked so hard together on the Child Care Development Block Grant Act, I regret that we disagree on this issue.

I have to agree with President Bush. You do not have to be for this bill to be profamily. You cannot separate the interests of the family from the interests of a healthy, strong economy.

This bill will impose new mandates on all Americans: mandated costs to employers; an inflexible leave policy for employees; and costs that are passed on to workers and consumers alike.

This is not the way to help families. If we are going to be profamily, let us make sure we do not mandate mothers and dads out of the ability to negotiate their own pay and benefits, or worse, mandate them out of a job.

Mr. DODD. Mr. President, I have run out of time. I ask unanimous consent to proceed for 2 minutes off the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, first of all, I thank the minority leader for being here. I must say I disagree, obviously, in regard to a number of his comments regarding these mandates. This is 2 cents per covered worker per day. That is a very modest amount for a very important benefit. If you ask people who need family and medical leave legislation, you get an entirely different response. No one ever thinks they are going to need this. No one thinks their child is going to get seriously sick or be in an emergency room. No one thinks their parent is going to need special care. It is only when it happens and they want to take some time to care for them that they realize it.

I supported the Americans with Disabilities Act. It was a very important piece of legislation. I know the distinguished minority leader is a strong supporter of that legislation. I do not know if there has been a single larger mandate that was adopted by Congress in recent years. The Americans with Disabilities Act is an extremely important piece of legislation.

There were those who opposed it and said, "Let the employers figure out how to do that and decide how to put in the architectural improvements and figure out how they would hire people with various forms of disabilities." We said, "Look, we tried that. Unfortunately, it does not work." That is no way to deal with these. Unfortunately, you have to make some basic requirements, or you are never going to deal with the problem.

That is true here as well. I would never have pursued this bill had the trend lines showed us to be moving in a direction where the private sector was stepping forward and doing something about family medical leave. As the Senator from Indiana [Mr. COATS], and the Senator from Missouri [Mr. BOND] pointed out, we still have some 80 percent-plus of the firms in this country that only provide a modest amount of maternity leave. We are not talking about serious illness of a child. So, unfortunately, the trend lines do not show any improvement in this area.

Last, Mr. President, we exempt all small business. The only firms covered by this are 5 percent of employers in this country. Ninety-five percent of all businesses are exempt under this legislation. Those 5 percent of employers who employ more than 50 people cover some 45 to 50 percent of the work force in this country. I have confidence that in a small work environment, a smaller employer will take care of these problems. They know each other, the secretaries, and the people who work on the shop floor. When you get to the larger enterprises, it is impossible for the chief executive officer to know everybody. They cannot do it. It is unfair to expect them to. So in the larger situation, it becomes important that these kinds of benefits are included, because there is no way that we have been able to see that they are actually covered by it.

One more point: This is not a dental plan. This is not vacation time we are talking about here. We are talking about human decency—basic human decency, that if your child is in a hospital someplace, you ought to be able to be with that child and not lose your job. If you have a spouse who is seriously ill and needs your attention and care, you ought not to lose your job. You ought to be able to be with that person. Unfortunately, most people in this country are not in that situation. To maintain your health insurance for a few days, to be a good worker and a good parent and a good spouse is not too much to ask. It ought not to be compared with getting your teeth cleaned or going fishing for a week. This is far more basic than that.

I urge the President to sign this legislation into law. I think it is something he would be proud of. He made a statement in Rockford, IL, in 1988. He said he was for it. Today, I hope he will live up to that and sign the legislation.

Mr. DOLE. Mr. President, I do not disagree with a thing the Senator said, that we ought to be sensitive and do all this. But should the Government do it? I say to those who want the Government to solve every problem, to make parents do what they should do, or to mandate family values, in my view, it is a fairly big assignment for the Federal Government. We do not do anything very well. The last thing we need to do is get into every family problem. We ought to have family leave. I am looking for corporations to continue their progress, and we will provide other ways through credits.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I rise today to support passage of the Family and Medical Leave Act.

I can think of no other group of Americans in greater need of protective legislation than working mothers.

In this campaign season, we hear so much about candidates being pro-family. This legislation is pro-family and will provide the job protection our families need in desperate times.

This bill provides 12 weeks of unpaid, and I emphasize, unpaid leave per year for the birth of a child.

If a working woman chooses to have a child, we should do all we can to ensure that the family is not strained by the prospect of her losing her job.

Fathers, as well, should have the opportunity to spend the first few months of his baby's life without the fear of unemployment.

This bill contemplates the concerns business owners may have and addresses them adequately. Ninety-five percent of businesses are exempt.

Thirty days notice is required. Medical certification can be requested. Part-time employees are not included.

We must recognize that we live in a society that cares about families and children. And we must recognize that to force these employees out of work, we are asking them to begin receiving public assistance. If they are not working, they are neither receiving a salary, nor any health coverage.

We then increase the number of people on welfare and on Medicaid.

Working mothers constitute a greater percentage of our work force every year. And single mothers are growing in numbers each year. These single working moms are some of the hardest working people I know.

Some work multiple jobs, without any assistance from their absent spouse, so that they may better the lives of their children.

This bill, in a small way, will improve the lives of millions of children and ease some of the great burdens on our working parents—both mothers and fathers.

If this Congress commits itself to invest in families, by allowing parents the flexibility needed for handling serious medical emergencies and pregnancies, then America guarantees satisfied and more productive employees and stronger, healthier families.

I urge passage of this important legislation. American families deserve our support.

Mr. BRADLEY. Mr. President, I am again pleased to have the opportunity to express my support for the Family Medical Leave Act. This important piece of legislation allows American families to accomplish two critical needs—to devote time to their family when medical needs calls for it, and to maintain their job as a productive member of the work force. However, I remain discouraged and dismayed, for although a large majority of the Congress recognizes the need to strengthen support for our families, the President will likely veto this bill.

The bill provides up to 12 weeks per year of unpaid job protected leave for employees for personal or family medical reason, and for parents upon the birth or adoption of a child up to the age of 18. Businesses with fewer than 50 employees would be exempt from the bill. This act supports the American family and supports American economic growth into the 21st century through support of the American work force.

The changing nature of our work force, with both parents having to maintain jobs to make ends meet, has made family medical leave an issue of growing concern. Nationally, 51 percent of mothers of children under the age of 1 are working, 66 percent of mothers with school-aged children are working, and 96 percent of all fathers with school-aged children are working. In addition, more than 2 million families provide care in their own home for elderly relatives who may require significant care and attention.

Mr. President, I am increasingly concerned that we find ways to reconcile the need to help families care for their children—as well as their aging parents—with the need for working parents to remain productive members of the work force. I believe that the Family Medical Act addresses the concerns of working parents and provides appropriate job security for these families.

The American work force should not be forced to choose between their jobs and caring for their families. I urge adoption of this legislation and I urge the President not to veto it. America's families need and deserve this support.

Mr. WELLSTONE. Mr. President, I rise today to express my support for the conference report on the Family and Medical Leave Act of 1991. If we work at it, Mr. President, this bill can be the first step in the development of a comprehensive policy designed to support American families. I hope that adoption of this conference report will signal a shift in our priorities as a nation regarding families and children.

This is not a complicated piece of legislation. It is not hard to explain. S. 5, the Family and Medical Leave Act, is designed to protect the jobs of American workers when they are faced with a family crisis. It says that you should not have to choose between having a family and having a job. It says that we believe in families in America, that we are willing to pay the small price, as a nation, for making families possible for people who work. It signals that we recognize that many American workers have trouble supporting their families and keeping them together in difficult times, concerned about the effect of taking leave time on their jobs. It is not television sitcoms that are destroying American families. It is our unwillingness to help people support their families. With enactment of this long-awaited conference report, we can begin to change that situation.

I want to make it clear, Mr. President, that I consider this legislation to be just a beginning, a modest start toward a more comprehensive family policy. We provide, with this act, 12 weeks of unpaid, job-protected leave per year for employees who are faced with the birth or adoption of a child, or who need to take care of an immediate family member who has fallen seriously ill. This is not much and it is very late—in the United Kingdom, the first policy of this sort was instituted in 1911, and the current leave policy there dates back to 1946. Canada's policy dates to 1962. Sweden has had a sickness and maternity leave policy since 1891. It is true, we can be a conservative, prudent country when it comes to adopting social legislation. But now that we have had close to a century in which to observe how these policies work around the world, I believe we must adopt our own, modest plan.

We are still the only developed country in the world with no family leave policy. If our observation of other nations tells us that this bill is hardly a radical new idea, it also tells us that it is hardly a family leave policy either. In Canada, workers are provided with 18 total weeks of leave and they receive 90 percent salary during the first 16 weeks of that leave. In France, employees can take up to 16 weeks leave, including 6 before giving birth, and they typically receive 84 percent of their pay during that period. Two of the nations most often cited as our major competitors for international markets, Germany and Japan, provide family leave policies—in Germany it is 14 weeks, paid at 100 percent of salary and in Japan, 12 weeks at 60 percent of salary. So we have a long way to go, if we are to catch up. And I must admit, Mr. President, that I do not understand why we must settle for anything but the best policies in this country.

So here, with this bill and this conference report, we will begin to update American family policy, to catch up with the rest of the developed world. This may be a minimal family leave policy, Mr. President, but it is a step in the right direction. It could not come at a more critical time for this country. More and more, Mr. President, we are a country of working families. Currently, 96 percent of all fathers and 66 percent of all mothers with school-aged children are in the work force. Over half of all women with infants work outside the home. What little progress we have made in the past 20 years on average incomes in this country has been due to the increase of two wage-earner families. If we are not going to make it possible to support a family on one income any longer, then we must make it possible for at least one family member to take some time out of work in case of emergencies.

If the lessons we have learned from other countries, and from studies of our own, prove correct, this policy will prove to be good for American business as well as for American families. According to a 1990 study by the Institute for Women's Policy Research, workers who suffer bouts of serious illness and who have no job-protected leave lose about $12.2 billion in earnings every year. Taxpayers pay an additional $4.3

billion annually through various support programs for workers who have lost their jobs due to lack of this sort of leave. A 1990 study from the Small Business Administration concludes that "the net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee."

As discussed in the conference report we have before us, this policy is expected to cost about $5.30 per covered employee. Keep in mind, however, that the only employees who are covered are those who work in firms that employ 50 or more workers, so that 95 percent of employers are not covered by this policy. In 1989, the General Accounting Office [GAO] estimated that this policy would cost about $244 million annually. That is clearly a bargain.

Mr. President, we do not have to look to foreign countries for examples of the effectiveness of family leave policies. We can look at several of the States for examples of the benefits of this policy. In my own State, we have a parental leave law that requires an employer to provide up to 6 weeks of unpaid parental leave to a mother or father upon birth or adoption of a child. A 1991 study by the Families and Work Institute of our policy along with similar policies in Oregon, Rhode Island, and Wisconsin, found that employers were able to implement the law easily and inexpensively, with little or no impact on other benefits. It did not lead to increases in the cost of health insurance, or unemployment insurance, training or administration, as some critics have predicted. It did promote healthier practices among parents, especially mothers, who were able to take medically recommended leaves to recuperate from childbirth and to be with their children.

By voting for this conference report, we are making a commitment, as a nation to support families, in all their forms. We are making a commitment to children. We are making it possible for parents to work and provide for their families. If we are serious about families, we will take this initial step. If we are serious about competing with Europe and Japan, we will take this step. If we want to make it clear that the values we believe in are rooted in the family, then we will begin by helping to shore up that family. This is, I hope, the first of a new set of policies that will show that we are, in this country, committed to putting our immense national resources behind our children and our families.

I want to thank the sponsors of this legislation for providing us with this opportunity and with the conferees for bringing this report before us. I enthusiastically support this conference report. And I urge President Bush, who has indicated his opposition to this legislation, to reconsider his position and sign this measure into law.

Mr. ADAMS. Mr. President, I rise to express my strong and longstanding support for the Family and Medical Leave Act. Working families in my State of Washington and throughout the United States need this legislation.

This year family values have unfortunately become a Republican campaign buzzword. The President says he understands what it is like to have a seriously sick child from his own experience. I am sure he would want every American to be able to spend time with their sick children. Yet the President vetoed this bill in 1990. I hope he will sign this bill this year.

We are at a critical point in the economic and social future of our Nation. Ten million Americans need jobs, but they also need to care for their families. The two things, work and family should not be opposing forces. They should not be mutually exclusive. It is time for American businesses to recognize that what is good for workers and families is also good for them and the economy.

This bill is very simple. It guarantees that someone who works will have the same job after a short leave to care for a new child or ill family member, or to recover from his or her own serious illness. According to the GAO, the costs are de minimis. The cost of $5.30 per eligible employee per year is negligible when compared to the cost savings to employers from reduced employee turnover and recruiting.

America lags far behind other industrialized nations on this issue. These countries are competitive and productive, while at the same time they support families. We cannot afford to fall farther and farther behind in the global marketplace. This legislation will help to make America first in the world again.

This is also the Year of the Woman. This legislation recognizes the contributions of our mothers, sisters, and daughters. Many more women work outside of the home today and the number is expected to continue to rise. A large number of these women are single parents who cannot depend on someone else to take care of a sick child. One-third of the 2.2 million Americans that care for our elderly are in the work force. Three out of four caregivers are women.

A woman who needs to work or wants to work should not be penalized because family members depend on her during times of injury or illness.

I urge all of my colleagues to vote for this legislation and I urge President Bush to sign this bill. No American family should be forced to choose between a paycheck and the needs of a sick family member.

Mr. HARKIN. Mr. President, American families are suffering. During the past 12 years, family income has dropped while health care and college costs have escalated. And many are worried about losing their jobs if they need to take time off when a child is born or a family member is sick. Today, we have the opportunity to deal with this concern by adopting the conference report on the Family and Medical Leave Act.

The United States lags far behind our industrial competitors in providing family and medical leave protection to workers. In fact, most other countries provide paid leave while this modest measure provides workers unpaid leave for up to 12 weeks for the birth or adoption of a child or to care for a seriously ill child, parent, or spouse. In fact, the United States is the only industrialized Nation without family and medical leave protection. It's time for this to change.

Many claim this modest bill will bankrupt small businesses, but, a 1990 nationwide survey by the U.S. Small Business Administration found that the cost of providing family and medical leave is substantially less than the cost of terminating an employee. In part, the report said, "the net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee."

Others claim family and medical leave would be difficult to administer, yet, surveys of businesses in States with such laws contradict these arguments. A study by the Ford Foundation surveyed employers in four States with family leave laws; 91 percent said the leave was not difficult to administer.

The bill is a modest, but vital investment in U.S. families. It's time to replace profamily rhetoric with pro-family action by adopting this conference report to provide workers with vital job security at times when they are most vulnerable.

In closing, I would like to commend Senator DODD for his outstanding leadership on this issue for the past 6 years. This legislation is long overdue. It is my sincere hope that President Bush will finally sign this pro-family bill.

Mr. PACKWOOD. Mr. President, I rise today along with Senator DODD, Senator BOND, and numerous other Senators, both Republican and Democrat, in strong support of the family and medical leave conference report. I am a longtime advocate of family and medical leave legislation.

On October 2, 1991, the Senate passed S. 5, the Family and Medical Leave Act, in the form of a compromise bill which was the result of the hard work of Senators BOND and DODD to respond to the concerns of the business community. The conference report which we have before us is essentially that same legislation. It provides up to 12 weeks of unpaid leave for the addition of a new child to the family, or for serious illness of the worker or their immediate family.

My State of Oregon is an excellent example of the success of family and

medical leave laws. In 1988, Oregon enacted legislation to allow 12 weeks of parental leave for parents of newborns and seriously ill children. At the time, a great deal of opposition and concern was heard from those who feared it would cost too much, be difficult to implement, and that employers would be forced to cut back other benefits to employees. I am happy to say that experience has proved these claims meritless.

Oregon was so pleased with the benefits of the original legislation that last year it expanded the law to add leave for serious medical conditions. Oregon's new law is one of the Nation's most comprehensive family and medical leave plans.

A report entitled "Beyond the Parental Leave Debate: The Impact of Laws in Four States" was issued in 1991 by the Families and Work Institute. The study featured Oregon and 3 other States which already have family leave laws. The vast majority of employers in those States reported at that they had no problems with those laws—91 percent said that the laws' requirements were not difficult to implement. In fact, 42 percent of Oregon employers said it was actually extremely easy to implement.

There may be skeptics who will say, just because a few States have a good experience with family leave, why should I want it for my State? The best answer I can give you is that the Family and Medical Leave Act is pro-family. Whatever side of the political spectrum you may be on, pro-family legislation benefits your constituents. This bill allows parents to spend the first few critical weeks of their child's life with the child. It also allows a worker whose child, parent, spouse or who himself is critically ill, to take the necessary time for recovery at home. Having the opportunity to deal with a crisis without fear of job loss strengthens families and keeps them together.

I would like to address some of the concerns about the cost of this legislation. From a fiscal standpoint, it is win-win. The taxpayers win, and business wins. Let me explain. When a worker loses a job due to a family crisis, they experience a loss in earnings that is passed on to the taxpayer. Workers who cannot return to their jobs often must resort to receiving assistance from welfare or unemployment. In its 1989 cost estimate of the Family and Medical Leave Act, the General Accounting Office estimated that the cost to the public of not having family and medical leave amounts to about $8 billion annually.

Business wins, too. A study commissioned by the Small Business Administration found that the cost of permanently replacing an employee is significantly greater than that of granting family or medical leave—demonstrating that the Family and Medical Leave Act may actually reduce costs to business.

The family and medical leave conference report deserves our support for all these reasons. I am pleased that we are adopting it.

Mr. BIDEN. Mr. President, I strongly support the conference report on S. 5, the Family and Medical Leave Act. A national policy on this issue—a national policy dealing with the changing nature of the American work force and a national policy to strengthen American families—is long overdue.

I have spoken before on the urgent need for this legislation and will not take much time here today. I do, however, wish just briefly to highlight and reiterate the important need for his legislation.

By choice and by economic necessity, the one-wage earner family is no longer the norm. Gone are the days of father as breadwinner, mother as bread maker. Gone are the days when the men went to work and the women cared for the children. Those were the days of my childhood; but they are not the days of today's children.

Two-thirds of all mothers with children under the age of 3 now work outside the home. Some choose to; some have to. The reasons may vary, but the result does not. The result is that, today, a parent may not be able to be at home in the crucial early days of childhood and during times of great family need. The result is that, today, far too many parents are faced with a difficult choice—a choice between work and family.

Imagine a single mother, working 40 hours a week in a low-wage job to provide for her two children. One day, one of those children becomes seriously ill. In most jobs, that hard-working mother faces a dilemma. Does she keep working, all the while worrying about the well-being of her child? Or does she leave work to care for the child, possibly losing the health insurance that covers the child's illness and the job that allows her to contribute to the economy instead of being a burden on it? And, unfortunately, this is not an imaginary dilemma; it is one in which thousands of Americans find themselves.

This hard choice between work and family—a false choice, in my view—is being thrust upon too many parents. In today's environment, for too many working parents, balancing work and family is a zero-sum game. It is time to change the equation, and that is what the Family and Medical Leave Act does.

It will provide up to 12 weeks of unpaid leave to care for a newborn or newly adopted child, or a seriously ill family member; continue the employee's health benefits; and guarantee that person his or her job upon return. It gives families in need a chance to care for each other without having to risk economic disaster. It is, in short, one of the most important steps Congress can take to strengthen our Nation's families.

And, Mr. President, the Family and Medical Leave Act—despite assertions to the contrary—can strengthen American businesses as well. The General Accounting Office found that the requirements of this legislation will cost businesses just $5.30 per employee per year. That's it: $5.30.

In return, businesses have workers who do not forfeit serious family concerns when they walk through the door. A 1988 study examining State parental leave laws found that small business employment in those States with mandatory pregnancy leave policies grew at a rate 21 percent greater than small businesses in States without leave policies. The reason is simple: leave policies make workers feel safer and happier, which leads to a more productive work force and a more competitive business.

Mr. President, this legislation has been before the Senate several times. Despite the need to help our families and despite the attention to family values, I fear that this legislation will fail again to become law. I suspect that a Presidential veto—and our inability to override that veto—will preclude the Family and Medical Leave Act from enactment. America's families and our economy deserve better.

Mr. DECONCINI. Mr. President, I rise today in support of the conference report on the Family and Medical Leave Act. Although conferees were named only last week, I am pleased that they were able to complete action on this report quickly. I understand that the report contains the same provisions that were included in the bill passed by the Senate last October.

This will be the second time that the Congress will send a bill to the President that provides working families with some job protection during the birth or adoption of a child or in the event of a serious illness of an immediate family member. He vetoed the first bill in 1990, which the House was unable to override the President's veto. I am hopeful that this year, with the attention that the administration has focused on family values, that the President will see his way clear to signing this bill into law.

Although I have always been a strong supporter of family leave, I would suggest to my colleagues that this legislation is more important now than it was when it was first introduced in 1985. Figures from the 1990 Census showed that 10.1 million American families were headed by single parents—a figure that is the highest in the world—and 86.5 percent of whom were women. The declining economy has forced many families to generate two incomes in order to keep their heads above water. It is projected that by the year 2000,

three out of every four American children will have mothers in the work force.

Mr. President, working parents should not have to choose between a job they can't afford to lose and a child or family member who needs them. We can send a strong message to the working men and women of this country by enacting this legislation. We can send a message that says we care about protecting their jobs and their economic security without forcing them to compromise their responsibilities to their families.

We have all heard the arguments against this legislation. Representing a State with an economy that depends on small businesses, I can appreciate concerns that mandated family leave would be devastating to small businessowners. However, I would point out that this conference report is the product of an ongoing bipartisan effort to arrive at a reasonable compromise. The provisions of S. 5 allow an exemption for businesses with less than 50 employees. That is more than 95 percent of all employers. It also allows an employer some flexibility to substitute accrued paid leave for any part of the 12-week period and allows them to recapture health insurance premiums if the employee does not return to work.

While many industrialized nations provide their workers with some form of family leave, most of them do so with compensation. Workers in Germany and Japan—our toughest trade competitors—get 14 weeks of leave with pay. Even countries like Libya, Iran, and Cuba provide maternity leave with pay. S. 5 provides up to 12 weeks of unpaid leave for the birth or adoption of a child or the serious illness of the employee or immediate family member. A General Accounting Office report estimates that the annual cost of providing unpaid family leave is $5.30 per employee—costs incurred primarily through the continuation of health insurance benefits for employees on unpaid leave. That seems a small price to pay for the measureless impact that time can have on a family welcoming a newborn or struggling through a serious illness.

President Bush, if your administration truly believes in preserving family values, you will sign this legislation. It reflects the needs of the changing American family—the one that can't afford to stay home during the first 12 weeks of a child's life without the fear of becoming unemployed or the family who can't afford in-home care for a sick parent or spouse, and can't afford to stay home to care for them. Children today are fighting against tremendous odds. The high risk of teen pregnancy, gang violence, drug and alcohol abuse are part of the world in which our young people live. The least we can do is give them the first 12 weeks of their lives with their parents. It is no guarantee that they will avoid these threats to their well-being, but it's a good start. I urge my colleagues to support this conference report.

FAMILY AND MEDICAL LEAVE ACT

Mr. SARBANES. Mr. President, I rise in strong support of the conference report on S. 5, the Family and Medical Leave Act. This legislation, which would provide for 12 weeks of unpaid leave for employees to care for a seriously ill child, spouse, or parent, or in the event of the birth or adoption of a child, is long overdue. As you know, similar legislation was passed by the Congress in 1990 but was, regrettably vetoed by President Bush.

It is important to note that the United States is the only industrialized country without a national family leave policy. In fact, almost every country in the world has a national parental leave requirement, including our most successful economic competitors in Western Europe and Asia, and these nations typically have requirements which go beyond those of the legislation we are considering today with respect to leave duration and income replacement. For example, in Europe, 5 to 6 months of paid leave is the norm for new mothers, and even Japan, which is often behind European nations in terms of labor standards, provides 12 to 14 weeks of partially paid leave with full job guarantees.

In contrast, we are attempting to once again pass a proposal today which merely provides job protection for workers with new babies or who are faced with family or medical emergencies. It does not require employers to pay such workers for this leave, and excludes entirely employers with fewer than 50 employees. The only thing that would be involved in this legislation that carries any cost would be the maintenance of health benefits. Other than that, this is unpaid leave. Workers are not automatically entitled to it and must, in fact, go through a very stringent screening process to demonstrate that they have a sick child, a sick spouse, or a sick parent, and that their presence is required in order to bring them back to health.

Mr. President, when in this country are we going to get to the point when parents are not put to the choice between looking after their sick child or keeping their job? How much longer are we going to go on confronting people with that dilemma? While we hear much talk from the White House and its supporters about family values and being pro-family, we are unable to enact legislation which would allow our citizens to meet pressing family obligations related to the birth, adoption, or the health of a child. Many employers have such arrangements with their employees, and I salute and commend them. However, there are sufficient instances in which this is not the case to make it reasonable to try to move legislation to address this critical issue.

The Family and Medical Leave Act will assist many Americans in balancing the demands of the workplace with the needs of their families. As a matter of plain human decency, it attempts to take some of the stress and strain off American families without placing a burden on American employers. I strongly support the passage of this important legislation and would urge my colleagues to join me in ensuring its passage and subsequent enactment.

Mr. DURENBERGER. Mr. President, I rise in support of final passage of the conference committee's agreement on S. 5, the Family and Medical Leave Act of 1992.

I do so wishing this conference committee agreement would not have taken so long to come back to this body for its final approval.

And, I do so wishing the important issues in this debate could have been resolved in a way that would have produced a greater degree of consensus among Republicans and Democrats, between the President and the Congress, and among America's employers and their employees, all of whom must balance workplace and family responsibilities every day of their lives.

That has been my personal goal in working on this legislation over the past two Congresses—to reach bipartisan, cooperative consensus that targets effective solutions to our most pressing problems. That continues to be my goal today.

In achieving that goal, I do not believe that America's workers and their families deserve to be treated like election-year cannon balls, dragged out and fired in a manner that may document differences among candidates, but that leaves a high national priority still unresolved.

But, despite these misgivings about tactics and timing, Mr. President, I intend to vote to approve this conference committee agreement, for the same reasons I supported the Senate's version of this bill on final passage.

I support this agreement because I believe we are long past the time when national policy should be on the side of the millions of workers and parents who must juggle their jobs and family responsibilities in ways our parents' generation never knew.

I also intend to vote to approve this conference agreement because I represent a State that has been at the forefront of helping workers and parents meet their often conflicting responsibilities at home and at work.

Members and others who have followed this issue closely know that I introduced a family and medical leave bill of my own about 18 months ago.

That legislation was based in part on this bill and, in part on a Minnesota law that allows employees to use sick

leave benefits to care for sick family members.

I continue to believe that approach represents a positive alternative to the largely untested new medical leave benefit we are mandating in this bill.

Experience tells us that most workers need relatively short periods of easily accessible time off to deal with all the obligations they face as members of a family.

And, common sense also tells us that having these periods of time off be paid leave will give this new benefit even greater value—especially for low-wage workers.

While some important changes have been made in the original S. 5 to deal with very real issues of concern to smaller employers, I also continue to believe the binding arbitration amendment I offered on the Senate bill would ease its implementation and speed resolution of disputes that will inevitably arise.

The beneficiaries of this legislation should be workers, their children and their family members—not lawyers.

Where differences over interpretation occur, those differences deserve to be resolved quickly. I believe my amendment would have brought that goal much closer to reality.

But, despite my preference for the initiatives I have offered, I intend to vote for this conference agreement because it is the vehicle now before us that assures greater balance in the lives of workers and parents of young children.

I believe it represents an important step forward in affirming not only the value of children but also the important obligations that family members inevitably must have to each other.

Finally, I want to pay special tribute to my distinguished colleague from Connecticut, who has given this issue so much of his time and attention over many, many years.

And, I want to thank my distinguished colleagues from Missouri and Kentucky, whose efforts to address some very legitimate concerns of employers has made it possible to me and others to support the legislation we now have before us.

The time has come, Mr. President, to make a strong statement about the value of families and of children, and a strong statement about the contribution that society as a whole must make, to helping families do what they do best by taking care of each other.

I believe this legislation takes an important step down that long road. I believe it deserves our support. I'm proud to say it continues to have mine.

Thank you, Mr. President. I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise today to support the conference report on S. 5, the Family and Medical Leave Act of 1991.

This legislation is long overdue. All our major competitors, including Germany, Japan, and Canada, as well as many Third World nations, have recognized that they have a national interest in helping families balance work and family responsibilities. It is time for the United States to do the same.

According to a survey by the U.S. Chamber of Commerce, 82 percent of all employers do not provide leave to care for sick children; 85 percent provide no leave for elder care; and 75 percent offer no parental leave for fathers. Only six States and about a quarter of employers offer leave time for adoption, even though such leave is required by most adoption agencies when the child being adopted is an infant.

This bill provides 12 weeks of unpaid—unpaid—leave for childbirth, adoption, or serious illness of an immediate family member. For parents having a child, or wanting to adopt a child, or for families dealing with a terminal illness, this legislation provides an essential opportunity.

And what of the burden on employers? According to GAO estimates, the total cost of this legislation to employers will be around $5.30 per covered employee per year. Some evidence on this question comes to us from the State of Oregon which implemented a parental and pregnancy leave law in 1988. In a study commissioned by the Oregon's Bureau of Labor and Industries, 88 percent of the employers found the bill to be easy to implement and the cost modest.

Mr. President, this bill is long past due, and I urge the President to sign the Family and Medical Leave Act into law.

Mr. JOHNSTON. Mr. President, I rise today in strong support of the conference report of the Family and Medical Leave Act. It is a much needed job protection bill which removes the potential penalty of an employee of having to choose between his or her job and family needs.

This legislation recognizes the realities of the changing American family. It recognizes the dramatic increase of single-parent households and two-income families.

The reality of the American family is no longer the idyllic dream of a bygone age. The reality is that our Nation is comprised of hard-working people who, in the most difficult times of their lives, have to make extreme choices between economics and personal imperatives.

Such choices place an undue burden on our citizens. The Family and Medical Leave Act asserts a reasonable balance between the needs of business to retain valued employees, and employees to expeditiously fulfill their family obligations in times of crisis and need while maintaining their commitments to their employers.

I have listened to the arguments on both sides of this issue. Those opposed to this legislation claim costs to business would increase and that it creates unnecessary regulatory burdens. However, studies commissioned by the administration clearly show that this reasoning is both unrealistic and unfounded.

We have debated the costs to business, but I ask, what of the costs to affected employees and our economy? In these times of economic uncertainty and distress, the Family and Medical Leave Act will add a needed measure of confidence in the workplace.

Finally, I consider it a tragedy that our Nation is currently the only western industrialized nation without such a policy. Ultimately we must ask the question, if our competitors are able to afford much more expansive policies of paid leave, can we not afford a policy which would allow an employee to take a potential 12 weeks of unpaid leave and would only apply to firms of more than 50 employees? The answer, as far as I am concerned, is that family and medical leave policies enhance our competitive strengths asserting the value of every employee.

Mr. President, we have come too far to turn our backs on the needs of our families. Thanks to the perseverance and dedication of my good friend from Connecticut, we are finally on the brink of enacting this measure.

It is my hope that the administration will reconsider their previous objections to the bill and reconsider the veto threat. Our families are counting on us.

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report Senate Resolution 330.

The assistant legislative clerk read as follows:

A resolution (S. Res. 330) relating to authorization of a multilateral action in Bosnia-Hercegovina under Article 42 of the United Nations Charter.

The Senate resumed consideration of the resolution.

Pending:

Stevens amendment No. 2929, to express the sense of the Senate regarding authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter.

The PRESIDING OFFICER (Mr. AKAKA). The majority manager on the resolution controls 15 minutes for debate. The Republican leader controls 10 minutes. The Senator from Virginia [Mr. WARNER] controls 5 minutes. In addition, there will be 30 minutes divided equally in the usual form on the Stevens amendment No. 2929.

Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield myself 5 minutes.

Mr. President, 47 years ago, in San Francisco, there were a group of us discussing theoretically how peace can be brought on the face of the Earth and how arrangements could be made to ensure that there would be peace.

I would like to read into the RECORD the names of those who were working on the Committee on Enforcement Arrangements at the San Francisco conference. We had at that time as chairman, Camilo Ponce Enriquez, of Ecuador; raporteur, Joseph Paul-Boncour, of France; secretary, William T.R. Fox; assistant secretary, Christian de Margerie; assistant secretaries, Ward Allen, Hugh D. Farley, CLAIBORNE PELL.

We were to take from an organization that had failed, the League of Nations, lessons to make a structure that would survive and could enforce peace.

I think one of the good things about the debate on the Bosnia resolution has been that all of us who believe in the United Nations, who are U.N. afficionados are really very pleased to see the way articles 39 to 45 have been brought into the general discussion of the Senate. More than at any other time that I can recall in the last 47 years, these articles have been discussed. More reliance is being placed on them. And to those of us who believe that the United Nations can provide the means to keep the peace, enforce the peace, it has brought a good deal of satisfaction. I think this is one of the fallouts of this debate. I am not sure the central part of the debate has been all that productive. We are, in many cases, duplicating what is being done by the President. But what is important is the reference and the reliance that we are placing on the United Nations and on the chapter 7 action with respect to peace, threats to the peace, breaches of the peace and acts of aggression.

I think, too, some of us, as we look through this little booklet, Officials of the U.N. Conference and International Organization, San Francisco, 1945, could take great interest in it and satisfaction in seeing so many of the names of the young people who were there, who got more responsible jobs afterward. The young people who were there were almost entirely young officers who were in the allied forces, young officers. We were in civilian clothes for the first time in several years. I know my wife had not seen me in civilian clothes, except pajamas, until the San Francisco conference when we took off our uniforms.

I yield 5 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Rhode Island. I want to speak on the resolution concerning what is happening in Bosnia.

And I thank the junior Senator from Connecticut [Mr. LIEBERMAN] for his leadership.

Mr. President, sometimes I listen to debates on the floor of the Senate and it is easy for me to muster up quite a bit of indignation. It is not personal. If I hear Senators arguing for tax breaks for people that do not need tax breaks, or for large corporations that are doing fine economically, but at the same time hear that we do not have money to feed hungry children, it is easy for me to feel indignation. The debate is clear; I know where I stand.

Other times on the floor of the Senate we have debates, and political truth is very illusive, and knowing the right thing to do is very difficult. I believe that has been the case with this debate on what is happening in Bosnia today.

I have listened to Senators like Senator MCCAIN from Arizona, and when they speak and they say we have to be careful to enunciate our objectives, that we have to be careful to know what the means are to achieve those objectives, and that we have to make sure that we are not involving young people in our country—men and women—in some kind of quagmire, I listen to them very carefully. They speak, I think, with great, great moral authority, and I take their words very seriously.

Mr. President, as I have analyzed this debate, I think there are probably two central dynamics to it. One of them has to do with the history of Vietnam and what happened in Lebanon and not wanting to repeat those mistakes again. And many, many Senators have been eloquent about that. But there is also I think another historical experience and time in the history of the world that is our reference point. And that is the Holocaust.

Mr. President, when I was a teacher I used to remind my students that the way we think about politics is very personal. It has much to do with our parents, our families, our communities, maybe our religion or personal experiences that have happened to us. In my particular case that is certainty so.

I have here in my hands a book by David Wyman called "Abandonment of the Jews." Preface: "Between June 1941 and May 1945, 5 to 6 million Jews perished at the hands of the Nazis and their collaborators," and then he goes on in this book to talk about the abandonment of the Jews, that the world knew but the world did not react.

Mr. President, when I see on TV the pictures of screaming children and dying children and I hear about the war camps and about ethnic purification, it sends chills down my spine. And I believe, though I take this debate so seriously and I know people argue in good faith on both sides, that sometimes silence is betrayal. Sometimes in the history of the world and the history of humankind, silence is betrayal. And I believe this is such a time and that is why I feel so strongly that we must support this resolution.

Mr. President, let me conclude by saying there are some who argue, "Well, but you have to, Senator WELLSTONE, talk about this in terms of the framework of our national interest." It is in the national interest of my country, the United States of America, to speak out when we hear discussions about ethnic purification, to speak out against these camps, to speak out against the torture of people. It is in the national interest of my country, the United States of America, to occupy high moral ground, to not turn our gaze away, and to not turn our backs away from people who are suffering.

Mr. President, we must pass this resolution. We must not be silent.

The PRESIDING OFFICER. The time yielded to the Senator from Minnesota has expired.

The Republican leader is recognized.

Mr. DOLE. Mr. President, it is my understanding this Senator has 15 minutes.

The PRESIDING OFFICER. The Senator is incorrect. The Republican leader has 10 minutes.

Mr. DOLE. And the Senator from Virginia has 5 minutes, which I claim, because he is not able to be here.

I yield 10 of those 15 minutes to our colleague from West Virginia, the President pro tempore, Senator BYRD.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank my friend, the distinguished Republican leader, Mr. DOLE.

Mr. President, the resolution that is before the Senate represents the best and worst in us, the willingness of Americans to refuse to countenance the moral outrages of bullies and oppressors—here the Serbs—on the one hand, and the lack of clarity and focus on how we will match our hopes with decisive acts that can be supportable by the American people over an extended period of time, on the other.

I am reminded by the situation in the Balkans, and by the intent of the resolution, to the situation we confronted in Lebanon in the middle half of the 1980's, a situation which ended in a sharp loss of the lives of hundreds of United States marines, a hasty withdrawal of American forces and the virtual extinction of United States influence in Lebanon from that time through today. Have we not learned about the political results of overreaching? Instead of bringing our influence to bear on a situation in a way which we can sustain at home over the long run, we are in the process here of raising expectations. These are expectations that I believe we cannot deliver on, and in failing to do so we erode the leadership of America in the world. The result may well be the unintended reverse of the laudable goals of the authors of this resolution.

It is fairly clear what is needed to bring peace in Bosnia. It is the pres-

ence of a peacekeeping force, or whatever you want to label the army that will have to be inserted into that conflict, of thousands, perhaps a hundred or more thousands of troops. There could be loss of lives in such an enterprise. What is our purpose with this resolution? It is the policing of the ethnic hatreds, now in the form of Serbian atrocities and aggression in Bosnia, in the age old cauldron of ethnic divisions that we call the Balkans. The Balkans beckon us to enter the fray, and none here can say how many lives will be expended in an attempt to bring peace to the warring States of what was once Yugoslavia and what was once Illyria, going back to the years before Christ. The Battle of Pydna was fought in 168 BC. And the result of that battle of Pydna was the extinction of the Antigonid dynasty in Macedon forever. It is a region long accustomed to wars of conquest.

The question here is simple: What kind of forces and levels of commitment should we embark on that the American people will sustain? To what extent can we impose our will in a situation that is inherently the business of the European states to police? We are debating this measure here today because the states of Europe are unwilling to police the conflict with the use of their ground armies. That is the simple reality. No amount of fancy language about U.N. Security Council meetings and resolutions will erase that reality. No amount of brave talk about the potency of American airpower to take out artillery pieces or other weaponry can paper over the military problem. Airpower will not do it. Airpower has never done it. It did not do it in Vietnam. It did not do it in Lebanon. It did not do it in the sands of Kuwait, where we had deployed 500,000 personnel.

This resolution would be more to the point if it said, Europe, do not expect America to save you from your history now. You, Europe, have to take history by the throat. We will support you, but you have to lead. We will play a supporting role, we can provide some logistics, some airpower, some naval gunfire support—but this is all marginalia. Somebody has to be on the ground to enforce the lines of entry and distribution of humanitarian aid and to break the way to the camps. Someone has to crash the gates of those concentration camps or whatever you wish to call them, and put them under the auspices of the Red Cross or some other organization which will save the inmates from perishing. Someone has to wish to give up their children for the safety of the Balkans. Do Senators really believe that the American people are prepared to give up their children in a place we call the Balkans, to take the right side in nationalistic hatreds, wars, bloodshed, and atrocities which, sadly, are part and parcel of the long history of that region?

It was the same in the days of the Roman conquests before the end of the Republic, and during the centuries of the empire. There is where the most warlike, the fiercest warriors came from—Illyria, Illyricum—there and from Germany.

So, Mr. President, I oppose this resolution because it appears to sanction the use of U.S. ground forces within a multinational force under United Nations auspices to "ensure the provision of humanitarian relief and to gain access for United Nations and International Red Cross personnel to refugee and prisoners of war camps." Second, such a force apparently would be responsible for implementing a cease-fire plan "which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision." As presently drafted, unless European ground forces are committed in substantial numbers to these purposes, the resolution accomplishes nothing but to cut the wires connecting this body to political reality.

The question that this body faces is the limits of its power to establish a new security order that will keep the peace in the Balkans. This conflict in Bosnia is not an isolated event. The problem is far deeper. The Balkans have traditionally been an area of political turmoil and violence. The explosion of nationalisms throughout the region and the interventions of the great powers in the 19th century have caused the region to be dubbed the powder keg of Europe. It was this powder keg which ignited World War I. The problem is then, age-old, and it is this: How can we establish a new security order in the Balkans and dampen the nationalistic conflicts of the region which have again reemerged in the absence of the discipline of the bipolar bloc politics of the cold war? It is not just the Serbs and the Croats. Yugoslavia is not the beginning and end of the problem. There are serious ethnic tensions between Hungarians and Romanians in Romania. The status of Turkish minorities are a source of heated controversy in Bulgaria and in Greece. There is the age-old question of the future of Macedonia—about which I spoke earlier—which could serve as a flashpoint dragging into war Serbia, Greece, and Bulgaria. Yugoslavia is only the opening gun of what could well be a spreading zone of instability. It is a test of the political will of the U.N. Security Council, to some extent, and to that point this resolution points the finger in one right direction. But, more fundamentally, Mr. President, it is a test of the European Community, the so-called European Community, and its willingness to establish mechanisms of a new security order in the Balkans. America cannot do it for them, this body cannot ask the Nation to impose its will on a continent that will not even begin such a process. It can call the attention of Europe to its responsibilities, but it cannot do much more than that.

Mr. President, are we going to be the policeman of the world?

Yes, my heartstrings are torn, too, when I see on television and in the printed media what is going on. But we cannot police the world, Mr. President.

What is going on in Somalia is likewise troubling. But do we intend to do in Somalia what we are advocating that we do now in Bosnia?

Where does this all stop? What is to be the cost? What is to be the human cost? What is to be the cost in treasure?

We have a $400 billion deficit this year. We anticipate a $400 billion deficit next year. The war in the Persian Gulf cost over $60 billion. Who is there to say that an adventure in former Illyriaum will not cost many times that amount?

Mr. President, let us think carefully before we vote today. This is just the first step. The second step will be when the President comes back and asks us to put up the money and the manpower. If we do, then we are heading into a bottomless pit. If we refuse, then we will be viewed as hypocritical.

Let us remember the words of Croesus to Cyrus, "In peace, the sons do bury their fathers, but in war, the fathers do bury their sons."

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Rhode Island has 6 minutes. The Republican leader has 5 minutes.

Mr. PELL. I yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, each morning for the past week we have awakened to new reports of the horrors that are taking place in Serb detention camps in the former Yugoslav Republic of Bosnia.

We hear of Croats and Slavic Muslims being beaten, raped, and killed, or left to die without food, water, or protection from the elements.

Now we are hearing reports of Bosnian Serbs suffering in camps.

News of detention camps, prisoners packed into boxcars, and ethnic cleansing brings to mind the horrors of World War II Nazi concentration camps. And those of us who served in World War II are very concerned about this, but we feel that history has given us a second chance.

To characterize this conflict—as some have—as an age-old regional blood feud that vents itself every 50 or 60 years is cynical. We must move beyond the past in a new world of all pervasive communication and rapid change.

People know about everything now. We did not know about everything in world war II as we were finishing it.

The incredible toll in human lives and suffering that we have witnessed should spur more concrete and constructive efforts.

I do not rise on the floor today to attack others or to place blame, but it must be said that there is a moral imperative before us. This situation cries out for leadership, and we must provide that leadership now. Soon it will be too late.

This is precisely the kind of situation that the United Nations was set up to handle. I was in the U.S. Navy in 1945 and 1946 in the bay area of San Francisco when they were signing the U.N. Charter, and I remember the debate over the multilateral use of force.

What the international community was trying to set up was a structure to handle regional conflicts. It was a world without superpowers at that time. The structure was to include the imposition of sanctions and other economic and diplomatic measures, to be followed by military force as a last resort.

Not that U.N. forces were to take sides in civil wars or regional struggles. The U.N. troops were to be the peacekeepers and the custodians of international order.

Unfortunately, the United Nations was never able to make good on its collective security mandate. And those of us who were living then were watching that debate in the San Francisco area as we were preparing to board ships for the assault in the final part of the war which we were only saved from by the peacekeeping in 1946—or actually the military victory.

The rigid cold war of the post-war world provided 40 years of vetoes by Soviets, Chinese, and yes, the United States in the U.N. Security Council.

I would say to my colleagues: History has given us—and the United Nations—a second chance. An opportunity to strengthen the United Nations and broaden the international community's ability to deal with these kinds of regional conflicts is now before us. I repeat: This is not a call for immediate U.S. military action. The resolution before us requires nothing. But all options available to the international community should be considered.

The leadership of Serbia must be put on notice once and for all that we will not allow this behavior to continue. We seek narrow objectives. Humanitarian relief efforts must go forward, and the International Red Cross must have access to all prison and detention camps.

The United States has traditionally been a beacon of hope to people around the world. We must demonstrate in no uncertain terms that the new world order will be guided not by cynicism and expediency but by the principles of morality and humanity. A test case is before us. I hope that we will rise to the challenge.

Mr. President, just as a final word, I knew well some of the members of the Council Five of Yugoslavia, particularly Anton Zelic, who ruled after Tito. We are not taking about a military force into the mountains of Yugoslavia. We are talking about narrow, defined actions as set forth in articles 42 through 44 of the United Nations Charter. So I hope this will happen and I hope we will meet the challenge.

I thank the Senator from Rhode Island for giving me this time, and I thank the Senator from Kansas for having given his leadership time.

I recognize the problem of the Senator from Alaska. I hope we can reach a bipartisan position on this because this is our chance, again.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I rise in support of this bipartisan resolution. I know it is a very troublesome resolution. It is one that I think is very difficult for some Members to decide. But I think just to make certain, there has been a lot of debate about Bosnia—more than, I think, anybody anticipated. There was also a lot of debate about Yugoslavia itself and the collapse of Yugoslavia.

We had a lot of debate yesterday which is not even related to the text of the resolution.

So I would just like to point out two things and remind my colleagues of two things: This is not an authorization for the use of force. That is No. 1.

No. 2, this is not a binding amendment. It is a sense of the Senate. The Senate has passed by voice vote—in fact the Senator from New York [Mr. D'AMATO] pointed out—in June—a much more rigorous resolution. We pointed out to the United Nations that it ought to have a budget and it ought to have a plan for intervention. This much tougher sense-of-the Senate resolution passed by voice vote.

I ask unanimous consent that copies of the previous resolutions be made a part of the RECORD so somebody reading the entire RECORD will understand. We have done this in the past. Maybe we should not have. Maybe there should have been a focus at that time. But things have a way, sometimes, of sort of slipping through the Senate.

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

[From the CONGRESSIONAL RECORD, June 12, 1992

S. RES. 306

Whereas continuing hostilities in the former republics of Yugoslavia are killing thousands of noncombatants, displacing hundreds of thousands of civilians, and causing massive destruction and starvation;

Whereas there is a threat of ever-widening conflict in the republics of the former nation of Yugoslavia, which conflict could extent to other nations in the region;

Whereas resolutions of the United Nations Security Council denouncing the hostilities in the former republics of Yugoslavia, and demanding that they cease, have not been heeded;

Whereas the United Nations Security Council, under Chapter VII of the Charter of the United Nations, has adopted Resolution 757, imposing sanctions on the Yugoslavia government, and requesting that the Secretary General work to create a security zone to assure unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Hercegovina;

Whereas the United Nations Security Council may, under Chapter VII of the United Nations Charter, make plans for the application of armed force to maintain or restore international peace and security, and the United States and other permanent members of the Security Council may veto resolutions of the Security Council;

Whereas officials of the United Nations and the United States have not determined what resources would be required to enforce a cessation of hostilities and bring peace to the former republics of Yugoslavia and, specifically, to enforce Resolution 757;

Whereas knowledge of the resources and military forces needed for such a task would enable the United States and other nations to make an informed judgment about how to take such action;

Whereas the process of devising a plan and budget for such action could, in itself, signal greater resolve at the United Nations to take action; and

Whereas the United States cannot and should not be the world's policeman, but is the one nation with the moral authority and military strength to provide leadership at the United Nations for stronger international coalition efforts to enforce peace; Now, therefore, be it

Resolved, That the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and budget for such intervention as may be necessary to enforce the Security Council resolution seeking cessation of hostilities in the former republics of Yugoslavia.

SEC. 2. The Secretary of the Senate shall transmit this resolution to the President.

[From the CONGRESSIONAL RECORD, Apr. 29, 1992]

SENATE RESOLUTION 290—REGARDING THE AGGRESSION AGAINST BOSNIA-HERCEGOVINA AND CONDITIONING UNITED STATES RECOGNITION OF SERBIA

Mr. PRESSLER (for Mr. DOLE, for himself, Mr. PELL, Mr. HELMS, Mr. D'AMATO, Mr. GORE, Mr. GORTON, Mr. PRESSLER, Mr. MCCAIN, Mr. BREAUX, Mr. GARN, Mr. SEYMOUR, and Mr. MACK) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas from February 19-March 1, 1992, the Republic of Bosnia-Hercegovina held a referendum in which 99.7% of the citizens who participated voted for independence from the former Yugoslavia;

Whereas on April 6, 1992, the Republic of Bosnia-Hercegovina was granted diplomatic recognition by the European Community and on April 7, 1992, was recognized by the United States;

Whereas since April of 1992 the Serb-led Yugoslav Army and Serbian militants have been engaged in brutal military action

against the government and people of the Republic of Bosnia-Hercegovina resulting in the death of innocent civilians, the diplacement of tens of thousands of persons, and the destruction of homes, schools, mosques, synagogues and churches;

Whereas the attack on Bosnia-Hercegovina follows aggression against the newly independent Republic of Croatia which resulted in the death of more than 10,000 people, the displacement of more than 700,000 persons, and the occupation of a significant portion of Croatia's territory;

Whereas the attacks on Bosnia-Hercegovina and Croatia by the Yugoslav Army and Serb militants constitute an attempt by the Government of the Republic of Serbia to alter borders by the use of force;

Whereas according to an official with the United Nations High Commissioner on Refugees, Serbian-led forces are delaying, diverting, and stealing humanitarian relief supplies donated to Bosnia-Hercegovina by the United States and other countries;

Whereas the Serbian government has maintained a brutal and repressive regime of martial law in Kosova and deprived the two million Albanians of Kosova of their political and human rights, including their right to self-determination;

Whereas Serbia's repressive policies in Kosova and the aggression of the Serb-led Yugoslav Army in Bosnia-Hercegovina and Croatia constitute serious violations of the Helsinki Accords and the Helsinki Final Act;

Whereas the United States, the European Community and the Conference on Security and Cooperation in Europe have condemned the aggression of the Serbian-led Yugoslav Army and Serbian irregulars, as well as the martial law regime in Kosova;

Whereas, on April 23, 1992, 25,000 Serbian citizens in Belgrade participated in an antiwar protest;

Whereas, extensive international diplomatic efforts, and the deployment of United Nations monitors and peacekeeping forces, have failed to achieve the withdrawal of Serbian-led forces and the restoration of peace in the Republics of Bosnia-Hercegovina and Croatia;

Whereas, the Socialist Federal Republic of Yugoslavia has ceased to exist: Now, therefore, be it

Resolved, That—

(1) The United States should hold accountable the Government of Serbia for the attacks on and occupation of the Republics of Bosnia-Hercegovina and Croatia, and for the extensive and systematic abuse of human rights in Kosova.

(2) The United States should withhold diplomatic recognition of Serbia and its ally Montenegro, who proclaimed themselves the "Federal Republic of Yugoslavia" on April 28, 1992, until Serbia ceases its aggression against the independent states of Bosnia-Hercegovina and Croatia; withdraws its forces from Bosnia-Hercegovina and Croatia; and halts its brutal repression of the Albanian people in Kosova and denial of the right to self-determination.

(3) The United States should actively encourage its allies to follow the same course.

S. RES. 176

Whereas, following the Declaration of Independence by the Republic of Slovenia on June 25, the conflict between the Yugoslav Army and the Slovenian Government and its citizens resulted in over one hundred casualties before a settlement was reached on July 10 regarding the withdrawal of the Yugoslav Army;

Whereas, over four hundred people have been killed in Croatia, including civilians, as a result of fighting that began after the Republic of Croatia declared its independence on June 25, 1991, and despite several attempted ceasefires;

Whereas, according to the Department of State and the European Community Ministers, the Serbian Republic leadership is actively supporting and encouraging the use of force in Croatia by Serbian militants and the Yugoslav Military;

Whereas, according to the State Department and the European Community observers in Yugoslavia, the Federal Yugoslav Military units in Croatia have not been serving as an impartial guarantor of a ceasefire, but have been actively supporting local Serbian forces violating the ceasefire, and causing loss of life to the citizens they are constitutionally bound to protect;

Whereas, the Republic of Serbia is continuing its brutal repression of the Albanian population in the Province of Kosova which has been under martial law for more than three years;

Whereas, the European Community is actively engaged in efforts to observe and mediate the conflict in Croatia and convened a peace conference on September 7, 1991;

Whereas, the European Community sponsored peace conference on Yugoslavia does not include an Albanian representative from the Province of Kosova; and

Whereas, continued violence and unrest in Yugoslavia will jeopardize the stability and security of Central Europe: Now, therefore, be it

Resolved, That—

(1) the Senate condemns the policies of violent aggression perpetrated by Serbian President Slobodan Milosevic, the Yugoslav Army and Serbian extremist guerrillas in Croatia;

(2) the Senate condemns the continuing and increasing repression against the Albanian population in the Province of Kosova;

(3) the Senate urges the administration to base its policy toward the six republics and two provinces of Yugoslavia on the democratic principles enunciated by Secretary of State on September 4, 1991, with respect to the Soviet Union;

(4) the deteriorating situation in Yugoslavia requires the United States to intensify efforts to resolve this crisis;

(5) the Senate commends the European Community for its efforts to mediate the crisis in Yugoslavia;

(6) the Senate urges the European Community to fully include an Albanian representative from the Province of Kosova in the European Community sponsored peace conference in order that a just and genuine settlement to the present crisis in Yugoslavia may be achieved and that potential violence in Kosova may be averted;

(7) the Senate calls on the administration to press for the inclusion of an Albanian representative form the Province of Kosova in the European Community peace conference; and

(8) the Senate urges the administration to raise the issue of Serbian Government sponsored aggression against the Croatian Government and the citizens of the Republic of Croatia, as well as against the two million Albanians in the Province of Kosova, at the Conference on Security and Cooperation in Europe meeting on the Human Dimension which convened in Moscow on September 10, 1991.

S. RES. 153

Whereas in 1990 the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia elected non-communist governments committed to democracy and free market economics;

Whereas in 1990 the republics of Montenegro and Serbia elected communist governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia and thereby denied representation to the collective presidency of Yugoslavia;

Whereas the leaders of Slovenia and Croatia and the other Yugoslav republics have been engaged in negotiations on the future structure of Yugoslavia since October, 1990;

Whereas these negotiations have not included representatives from the provinces of Kosova and Vojvodina;

Whereas on June 25, 1991, the republics of Croatia and Slovenia declared their independence;

Whereas the Yugoslav Army responded to these declarations by mobilizing and deploying tanks and troops in Slovenia, Croatia and Kosova;

Whereas the unwillingness of the Yugoslav central government and the military authorities to negotiate with the democratically elected leadership of Slovenia and Croatia has led to unnecessary bloodshed;

Whereas there have been numerous reports of deaths of civilians, policemen, militiamen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia, and as a result of repression against the Albanian population in Kosova: Now, therefore, be it

Resolved, That—

(1) the Senate supports the principles of democratization and self-determination for the six republics and two provinces of Yugoslavia;

(2) the Senate urges that the United States use its leadership to ensure that concerns regarding the restoration of political stability in Yugoslavia will not preclude the chief objective of promoting and securing democracy and self-determination;

(3) the Senate condemns the use of force by the Yugoslav authorities against civilians;

(4) the Senate urges the peaceful resolution of political differences in Yugoslavia and the inclusion of Kosova and Vojvodina in that process;

(5) the Senate calls on the Yugoslav Army to refrain from obstructing the functioning of the democratic governments of Slovenia and Croatia and calls on the government of Serbia to cease from using force against the Albanian population of Kosova;

(6) the Senate calls for free and fair elections to be held in the provinces of Kosova and Vojvodina;

(7) the Senate urges the President to explore means of increasing direct diplomatic, political and economic ties with the democratic governments of the republics of Croatia and Slovenia;

(8) the Senate urges the State Department to expand direct contacts with the leaders of the democratic opposition of Kosova and Vojvodina; and

(9) the Senate recommends that the administration shape its foreign assistance, trade and technical assistance programs to support the republics of Croatia and Slovenia and the other democratic republics in Yugoslavia, and to encourage democracy in the rest of Yugoslavia.

S. RES. 147

Whereas since May 15, 1991, Government of the Republic of Serbia has blocked the con-

stitutional rotation of the Federal Presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991, the democratic Republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other Republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yugoslav Central Government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen, and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the Republics of Slovenia and Croatia; and

Whereas in its June 26 statement on Yugoslavia, the United States Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia": Now, therefore, be it

Resolved, That the Senate—

(a) condemns the use of force to resolve political differences within Yugoslavia;

(b) calls on the Yugoslav Central Government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement; and

(c) calls on the Government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

S. RES. 106

Whereas in 1990 four of the six republics in Yugoslavia elected non-Communist democratic governments;

Whereas in 1990 two republics in Yugoslavia elected Communist governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia;

Whereas the United States Department of State's 1990 annual report on human rights state that, "in the province of Kosova, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians."

Whereas the Yugoslav Army has threatened the use of military force to undermine the democratic republics of Yugoslavia and to suppress human rights in the province of Kosova and elsewhere;

Whereas despite continuous and good-faith efforts by the democratic republics to come to a negotiated agreement on the future structure of Yugoslavia, there remains a threat of a military crackdown; and

Whereas the political situation in Yugoslavia is highly uncertain: Now, therefore, be it

Resolved, That—

(a) United States policy toward Yugoslavia should be based on support for democracy and human rights for all of the people of Yugoslavia;

(b) the Senate calls on Serbian President Slobodan Milosevic to cease all repressive policies against the Albanian population of Kosova;

(c) the Senate calls on Yugoslav President Jovic and the Yugoslav Army to refrain from the use of coercive tactics and force against the democratically elected governments of the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia;

(d) the Senate notes that the criteria established in Section 599A of Public Law 101-513 have not been met by the Yugoslav and Serbian governments; and

(e) In the event of a military crackdown by the Yugoslav Army or the imposition of martial law in Yugoslavia, the President should immediately suspend all economic and technical benefits provided by the United States to Yugoslavia.

Mr. DOLE. This resolution, does not direct the President to do anything. It basically reflects the President's efforts to bring relief to the people of Bosnia, and in effect, urges him to continue to pursue the policy on which he is already embarked.

And, I might say for the record that both President Bush and Secretary Baker have personally indicated to me that they do not object to this resolution.

Mr. President, I would hope, that as this resolution is considered we keep in mind the desperate plight of the Bosnian people.

We are getting used to the words "starvation" and "concentration camps" and some may be getting accustomed to the pictures we see on television or in the newspapers. But there is no doubt about it, particularly for the Moslems and the Croats, it has been a living hell for some time.

It is indeed hard to believe. Little did we think that at the end of the cold war we would find not a new world order in the Balkans, but a new world horror. A new world horror in which savage barbarism and brutal dictatorship—unseen on the European continent for 50 years—is threatening to take hold of the Balkans and destroy whole nations and peoples. This time, however, Serbian President Milosevic is to blame.

Yet, while this has been going on in the middle of Europe, the Europeans have done little to prevent the spread of Belgrade's terror. The Europeans have done just enough, just enough to ward off feelings of guilt—guilt for not taking steps to stop Milosevic in his tracks when he first ordered the attack on Slovenia over a year ago.

What are we going to do about it? We, obviously, cannot be the world's policemen. We obviously cannot get involved in every ethnic conflict. There are going to be lots of them. There are many right now. Some would say, if you are going to do this with this part of the world, what about Somalia? Why are they different? Why can we not do the same for Somalia?

My view is we talk about a new world order. But, we have not seen a new world order yet for the Balkans. We do not know precisely what the Serbs have in mind. And there is a lot of confusion, I would say—not in defense of the Serbs but as a matter of fact. There may be other things happening that are not inspired by the Serbs, not initiated by the Serbs. But they were the aggressor.

Maybe we were a little slow 6 months, 8 months, 10 months, 12 months ago, both in Congress and in the administration, by not sending a strong signal at that time. I think the Serbs may have assumed, well, maybe we can do anything; nobody seems to care in the world. But that has changed, too.

Milosevic, the Serbian President, is the last hard-line Communist dictator in Europe. He certainly has not indicated any willingness to cooperate at all.

So we are going to pass this resolution. I do not believe Milosevic is over there trembling, waiting for the Senate to act. My view is he could care less. It probably will not make any difference.

I ask unanimous consent to have printed in the RECORD at this point the text of the United Nation's draft resolution on the Balkan crisis, which is not very strong. It is not very strong at all. But it is an indication that the international community wants to do something about this very difficult problem.

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

TEXT OF THE U.N.'S DRAFT RESOLUTION ON THE BALKAN CRISIS

UNITED NATIONS, August 10.—Following is a draft of the Security Council resolution being considered to authorize the use of force to insure that aid is delivered to Bosnia and Herzegovina.

The Security Council,

Underlining once again the imperative need for an urgent negotiated political solution to the situation in Bosnia-Herzegovina,

Recognizing that the provision of humanitarian assistance in Bosnia-Herzegovina is an important element in the Council's effort to restore international peace and security in the area,

Commending the United Nations Protection Force (UNPROFOR) for its continuing action in support of the relief operation in Sarajevo and other parts of Bosnia-Herzegovina,

Deeply disturbed by the situation that now prevails in Sarajevo, which has severely complicated UNPROFOR's efforts to fulfill its mandate to insure the security and functioning of Sarajevo Airport and the delivery of humanitarian assistance in Sarajevo and other parts of Bosnia-Herzegovina pursuant to resolutions 743, 749, 761, and 764, and the reports of the Secretary General cited therein,

Dismayed by the continuation of conditions that impede the delivery of humanitarian supplies to destinations within Bosnia-Herzegovina and the consequent suffering of the people of that country,

Deeply concerned by reports of abuses against civilians imprisoned in camps, prisons, and detention centers,

Determined to establish as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever needed in Bosnia-Herzegovina, in conformity with the mandate given by resolution 764 of 13 July 1992,

Acting under Chapter VII of the Charter of the United Nations,

1. Reaffirms its demands that all parties to the conflict immediately cease all military activity in Bosnia-Herzegovina;

2. Calls upon all states to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations' humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia-Herzegovina;

3. Demands that unimpeded and continuous access to all camps, prisons and detention centers be granted immediately to the ICRC and other relevant humanitarian organizations and that all detainees therein receive humane treatment, including adequate food, shelter and medical care;

4. Calls upon all states to report to the Secretary General on measures they are taking in coordination with the United Nations to carry out this resolution, and invites the Secretary General to keep under continuous review any further measures that may be necessary to insure unimpeded delivery of humanitarian supplies;

5. Requests all states to provide appropriate support for the actions undertaken in pursuance of this resolution;

6. Requests the Secretary General to report to the Security Council on a periodic basis on implementation of this resolution;

7. Decides to remain actively seized of the matter.

Mr. DOLE. This appeared today in the New York Times. It may be voted on in the U.N. Security Council later this week. It may be changed to some extent, but I think at least it ought to be in the RECORD to indicate that other nations are having difficulty dealing with this problem, too, because of what the distinguished Senator from West Virginia has said and others have said on the floor. We do not want to get involved in a quagmire.

Mr. President, it seems to me, though, we do need to send some kind of signal. Maybe it is not going to be heard beyond this Chamber. I have not seen many headlines on what the Senate has been debating in the last couple of days. Maybe it is not going to be heard at the United Nations. It will be heard in the countries of the former Yugoslavia, though. I can say this, based on experience. The people in Sarajevo will know about the resolution. The people in Croatia will know about the resolution. People in Belgrade will know about the resolution. It might have some small impact if the vote is almost unanimous, as I hope it may be.

We do have an obligation to be the leader in the international community. That does not mean we have the obligation to commit troops. Nobody is suggesting ground forces. But all we suggest, for humanitarian purposes, there may be certain cases where we might have to use all necessary means.

So, Mr. President, I ask unanimous consent to include in the RECORD the President's six-point plan which is referred to in the resolution, and also a statement by the President, to indicate that this is not only bipartisan in the Congress, but bipartisan across the board.

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

STATEMENT BY THE PRESIDENT

Ladies and gentlemen: Today I want to discuss with you the situation in Bosnia-Hercegovina and the former Yugoslavia and what the United States—working with the international community—is doing to contain and defuse this escalating crisis.

Like all Americans, I am outraged and horrified at the terrible violence shattering the lives of innocent men, women, and children in Bosnia. The aggressors and extremists pursue a policy of "ethnic cleansing," deliberately murdering innocent civilians and driving others from their homes. Already, the war has created over 2.2 million refugees—roughly the population of greater Pittsburgh or Baltimore. This is without a doubt a true humanitarian nightmare.

The war in Bosnia-Hercegovina and Croatia is a complex, convoluted conflict that grows out of age-old animosities. The blood of innocents is being spilled over century old feuds. The lines between enemies—and even friends—are jumbled and fragmented.

Let no one think there is any easy or simple solution to this tragedy. The violence will not end overnight, whatever pressure and means the international community brings to bear. Blood feuds are difficult to resolve, and any lasting solution will only be found with the active cooperation and participation of the parties themselves. Those who understand the nature of this conflict understand that an enduring solution cannot be imposed by force from outside on unwilling participants.

Defusing this crisis and preventing its spread will require patience and persistence by all members of the democratic community of nations and key international organizations. Bringing peace again to the Balkans will take years of work.

For months now, we have been working with other members of the international community in pursuing a multi-faceted and integrated strategy for defusing and containing the Balkan conflict. Let me explain the critical steps we already have underway to help defuse and contain this crisis.

First, we must continue to work to see that food and medicine get to the peoples of Sarajevo and elsewhere in Bosnia no matter what it takes.

To this end, I have directed the Secretary of State to press hard for quick passage of a UN Security Council Resolution authorizing the use of all necessary measures to establish conditions necessary for, and to facilitate the delivery of, humanitarian assistance to Bosnia-Hercegovina. This Resolution is critical to our efforts to bring food and medicine to the people of Bosnia.

This Resolution will authorize the international community to use force, if necessary, to deliver humanitarian relief supplies. My heartfelt hope is that will not prove necessary. But the international community cannot stand by and allow innocent children, women, and men to be starved to death. You can be assured that should force prove necessary, I will do everything in my power to protect the lives of any American servicemen or women involved in this international mission of mercy.

To truly end the humanitarian nightmare, we must also accelerate our efforts to stop "ethnic cleansing" and to open any and all detention camps to international inspection. I urge the international community to join with us in an extraordinary session of the United Nations Human Rights Commission to find assured ways to gain access to any and all detention camps.

Second, we must support the legitimate governments of Slovenia, Croatia, and Bosnia-Hercegovina. To this end, I have decided that the United States will move now to establish full diplomatic relations with those governments. I will shortly submit to the Senate my nominations for ambassadors to these posts.

Third, we must continue to isolate Serbia economically and politically, until all UNSC Resolutions are fully complied with. We must continue to tighten economic sanctions on Serbia so that all understand there is a real price to be paid for the Serbian government's continued aggression. The United States proposes that the international community place monitors in neighboring states to facilitate the work of those governments to ensure strict compliance with sanctions.

Fourth, we must engage in preventive diplomacy to preclude a widening of the conflict into Rosovo, Vojvodine, Sandehak, or Macedonia. Therefore, the United States is proposing that the Conference on Security and Cooperation in Europe place continuous monitoring missions in these locations to provide an international presence and inhibit human rights abuses and violence.

Fifth, we must contain the conflict and prevent it spilling over into neighboring states like Albania, Hungary, Bulgaria, Romania, and Greece. To this end, the United States proposes that the international community again place civilian monitors, thereby reassuring these governments of our concern for their welfare and inhibiting any aggression against them.

Sixth, we are consulting with our allies in NATO on all aspects of this crisis and how the Alliance might be of assistance to the United Nations.

These six steps represent an integrated strategy for defusing and containing this conflict. We have been working with the international community to advance our work on each and will continue to do so in the weeks ahead. It is only through international cooperation—through the UN, NATO, the EC and other such institutions—that we will be able to help bring peace to that troubled region. Those who frantically call for unilateral action do not understand the magnitude of the crisis, history, or the requirements of a responsible foreign policy.

Mr. DOLE. Clearly, no one person has the answer. No one is willing to commit American troops, as the President said: Who is going to choose whose son to send to Yugoslavia?

But at the same time, it is my view that we have a responsibility in this particular case. This resolution is not a blank check. It is not a Gulf of Tonkin resolution. It is a simple statement of the Senate's conviction that the United States should attempt to get from the United Nations authorization to use all necessary means to give effect to Security Council decisions. If they do not make any decisions then our sense-of-the-Senate resolution has even less impact.

Mr. President, in addition to that, I have received a copy of a paper written

by a very distinguished member of the International Institute for Strategic Studies about military intervention in the Bosnian conflict, Francois Heisbourg, Director of the International Institute for Strategic Studies which will be printed on August 14, but I have permission to put it in the RECORD at this time. He is an expert on the subject who comes to the position that this is a very close call, that we should do something, that we should express ourselves, and we should make certain that we do all we can to provide humanitarian aid.

I ask unanimous consent that the article be made a part of the RECORD.

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

MILITARY INTERVENTION IN THE BOSNIAN CONFLICT

(By Francois Heisbourg, Director, International Institute for Strategic Studies (IISS))

(Article for "Die Zeit" (14.08.92))

In examining options for international military action in Bosnia-Herzegovina going beyond "blue helmet" peace keeping operations, several pre-requisites need to be kept in mind:

(1) The missions of such an intervention have to be formulated in clear terms—unlike what happened in Beirut in 1982-84 with the force deployed for humanitarian purposes by France, the US, Italy and the UK. The necessary material means and rules of engagement have to be established allowing for the accomplishment of the assigned missions. This article will attempt to outline some of these missions and their implications.

(2) coherent command arrangements need to be set up—here again, unlike what occurred in the Beirut debacle of 1982-84.

(3) military missions have to be in full coherence with clearly formulated political aims, which in this case should entail precise objectives concerning the future status, structure and borders of Bosnia-Herzegovina as well as specific humanitarian goals regarding the fate of the civilian population.

The discussion of political objectives is not entered into here, but it imperatively needs to be held, and resolved, by the intervening parties—be they the UN, the CSCE, NATO, the WEU or an ad hoc coalition—before entering into forceful military operations.

(a) The militarily least demanding mission would be to impose a military blockade as a means to enforce sanctions against Serbia/Montenegro. Timely detection of unauthorized and significant air, road, sea and river traffic can be ensured by a combination of available means: the fleets and naval air in the Adriatic; NATO and/or British and French AWACS aircraft; monitors to be deployed along the borders of Romania, Hungary, Bulgaria, etc., although in practice coordination between the detection of a violation and a timely military response could be difficult. Naval forces and combat air patrols operating from Italy and carrier vessels would be in a position to interdict unauthorized movements, although his could entail politically difficult decisions, since airliners, ships or trucks may have to be threatened with destruction as a last resort. Risks to the blockaders would be small, although some losses could occur. Fighter aircraft stationed in Western Europe are more than able to deal with a Serbian air force which only possesses some twenty top-of-the-line MIG-29s (along with a hundred or so rather older MIG-21s). That being said, a military blockage would do less to implement the sanctions than effective compliance by the neighboring states. The main advantage of forceful blockade would be to bring home to Belgrade the point that international military intervention has become a real possibility.

(b) International military intervention could also seriously hinder large-scale offensive movements by the Serbian forces in Bosnia and help prevent their reinforcement from Serbia. Air strikes could be undertaken against arms, munitions and fuel depots, military production facilities, choke-points (roads, rail-bridges in the narrow valleys of Bosnia), military vehicle convoys, as well as against artillery batteries and armored formations in the field. Given the distances involved, and the need for intervening aircraft to have to time to locate worthwhile targets, it would be useful to be able to operate from airfields in Croatia and the more peaceful parts of Bosnia. However, aircraft operating from Italy and aircraft carriers could perform the mission. There are potential drawbacks to such air operations:

"Surgical strikes" would be the exception rather than the rule; Bosnia is not a desert: many targets, and notably artillery batteries, will be located near houses, and cannot be "taken out" without civilian casualties. To reduce these, bombing will often have to be made from a very close range. In addition, the weather will frequently hamper air operations

Serbian air defense includes a broad range of hand-held and mobile SAM launchers which would cause significant losses against aircraft coming in at close quarters.

Bombing operations could be initiated promptly by the international community with a telling military, as well as political, effect. Heavy arms operations by the Serbs in Bosnia and support from Serbia would be seriously hampered. Long-range artillery around Sarajevo could be partially neutralized, although the same would not apply to roving mortar squads and snipers.

(c) Extracting the blue helmets from Sarajevo could call for a forceful military operation of some magnitude. A withdrawal may be necessary if the UN peacekeeping and humanitarian efforts were consistently frustrated by hostile action, particularly if UN forces were deliberately targeted as they have been lately, for example in retaliation to military measures of the sort described above. Moving the two thousand blue helmets to safety in the face of hostile fire would entail the provision of dense close air support to the UN convoy which would have to cross several dozens of kilometers of dangerous territory before reaching safety. Such air support should include combat helicopters in order to pin down mortar, anti-tank and machine gun ambushes. This may require use of a facility close to the Croatian-Bosnian border, along with the close-to-shore deployment of the "Iwo Jima".

(d) Breaking the sieges of Sarajevo and Goradje would entail much greater military difficulties. In order to secure a 25km radius around the town of Sarajevo, intervening forces would have to defend a circumference of some 150 kilometers. Even accepting that part of the perimeter would already be in more or less friendly hands, it would require at least a large division of combat forces to man the line plus extra forces to patrol the zone and to ensure the logistics, in effect a total of at least two divisions. Casualties could be substantial. Indeed, the site of Sarajevo offers the political charms of Beirut combined with the topographical attractions of Dien Ben Phu. In other words, inserting combat forces into Sarajevo would be a high-risk venture, which should not be considered if other options are available.

(e) More generalized military operations physically to prevent "ethnic cleansing", to open up forcefully permanent road corridors in hostile territory, and/or to reverse territorial gains by the Serb (and the Croat) forces in Bosnia would call for commensurately greater forces and casualties, even if parallels with World War II operations against Tito's partisans should not be applied to a rather different politico-military situation. However, it may be militarily more feasible to prevent "ethnic cleansing" in areas which have not yet been overrun by hostile forces and to provide humanitarian assistance by force to areas where Serb forces are not heavily concentrated. Foreign military forces with the appropriate artillery and combat helicopter support could be deployed by road to regions yet relatively untouched by combat, for example in the northwestern, Muslim-populated corner of Bosnia and in Herzegovina. These forces would have to be re-inforcable at short notice, via Croatia. In order to be able to cope with a possible all-out effort by Belgrade in support of Serb forces in Bosnia, it would be prudent for such an international expeditionary force to be of at least army corps size (3 to 5 divisions), since Serbia's army disposes of some 100,000 men on active duty. The insertion of an international expeditionary force is not as risky as the "Sarajevo option", since much of this corps could be kept in reserve, and would have secure lines of communications, and its role would be largely deterrent or defensive.

In summary, there are no simple or easy options. In view of military constraints, political realities and the broader context of Europe's effective security regime, it is my considered opinion that the following steps can, and should be considered:

The leaders of Europe and the United States have to impress on the Serb leaders in Serbia and Bosnia that the use of force is a real option, whereas until recently the tendency has been to convince them of the opposite. . . . In particular, we have to induce the leadership in Belgrade to apply to the Bosnian Serb warlords the same sort of pressure which was exercised on Serb leaders in Croatia last January.

The reality of the military option can be readily materialised not only by the mounting of a blockade. Much could be achieved in the way of signalling resolve by mounting intensive reconnaissance and intelligence-gathering flights over Serb-controlled or Serb-threatened territory in Bosnia by aircraft such as the TR1-A or even JSTARS. Such activity is in any case vital to the success of any subsequent bombing campaign.

Bombing operations should commence if the Serb leadership in Bosnia did not rapidly comply with whatever political and humanitarian conditions the international community deemed appropriate such as full Red Cross access to detention camps, a halt to ethnic cleansing, suspension of artillery fire against Sarajevo. Such bombing should be conducted exclusively on Bosnian territory, since this could be done at the request of the Bosnian government on the basis of Article 51 of the UN Charter. In military terms, this would permit both a greater concentration of firepower while reducing the risk of losses from air defenses which are largely concentrated in Serbia proper. Prior to a bomb-

ing campaign, it may be necessary to move the UN force out of Sarajevo. If this were undesirable, a combat force of at least two divisions with a full complement of supporting artillery would have to be inserted into the Sarajevo area.

In parallel to the threat of a bombing campaign, countries of the CSCE, either on an ad hoc basis (a Gulf-style coalition), or in the framework of subregional organisations (NATO), (WEU) should prepare for the deployment of an expeditionary force equivalent to a full army corps of some 50- to 100,000 men with a view to deploy in the areas of Bosnia-Herzegovina as yet saved from the scourge of ethnic cleansing. These forces should have the same sort of clean-cut command structure as during the Gulf war. In this respect the baroque NATO-WEU command arrangements in the Adriatic are not only ridiculous: they would become a tragedy if they were applied to ground or air forces in a combat situation when human lives are at stake.

I have come to these conclusions with reluctance: as the IISS has consistently pointed out, the military difficulties are great and are vastly enhanced by the political complexities involved. However, we have reached the stage where the consequences of not intervening have become greater than the dangers of a forceful intervention. There will be no security in Europe during the next decades if "ethnic cleansing", and its cortege of atrocities, is seen as a viable policy by brutal leaders in ethnically diverse regions in Eastern Europe and the former Soviet Union. The warlords of Bosnia must be checked, and Serbia (and Croatia) must not be allowed to extend their borders at the expense of Bosnia-Herzegovina, however fragile and artificial that state may appear to be: it is a recognized member of the UN and of the CSCE and therefore UN and CSCE rules must apply there, if they are to prevail elsewhere in post-communist Europe.

Mr. DOLE. Mr. President, has time expired?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. Mr. President, the distinguished minority leader gave two-thirds of his time to me. I ask unanimous consent he may have 5 additional minutes.

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

Mr. DOLE. I thank the distinguished Senator from West Virginia.

I would also like to compliment the distinguished Senator from Connecticut [Mr. LIEBERMAN] for his tireless efforts on this issue. Because he has been the leader in this effort. It is a difficult call. The Senator understands that. This Senator understands that.

I would hope my colleagues, though—I would say in conclusion—take a look at the resolution. We are talking about supporting the decisions of the United Nations. So far they have not made any decisions. It is not a commitment. It is not an authorization.

If this were an authorization, if we were debating an authorization on the Senate floor, then it would be an entirely different thing. This is a freebie for some. They can vote for this. It does not have that much meaning. But, if this were an authorization as we had in the gulf crisis it would be a much different debate, a much longer debate. And I am not certain what the outcome would be. I would not want to guess at this point.

But this is not an authorization. This is a sense-of-the-Senate resolution. It is not binding. But I do believe based on other resolutions we pass and what many of us really believe, that we should pass this resolution, we should have strong bipartisan support, and that we ought to do that later today.

Mr. President, I yield the floor.

I thank the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] controls 15 minutes on his amendment No. 2929. The manager of the resolution also controls 15 minutes on the amendment.

Who yields time?

The Senator from Rhode Island.

Mr. PELL. Mr. President, is there any time remaining to me on the bill itself?

The PRESIDING OFFICER. The Senator has less than 1 minute remaining.

Mr. PELL. I yield that less than 1 minute to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Senator from Rhode Island, and I look forward to having a few more seconds to speak on the amendment of the Senator from Alaska. Let me use this less than 1 minute to thank the Senate Republican leader for his statement, for his kind words and for his leadership on this, which really has shown that this is a bipartisan expression of outrage at what is happening in Bosnia, and it is essentially a call to police. It is not an assumption by the United States as the role of policemen of the world. In fact, it specifically says it calls for an international multilateral effort.

The fact is the Europeans, in whose neighborhoods this disaster is occurring, should take the lead. But just as the British and French stood with us in Operation Desert Storm, we should stand with them in this expression of outrage and support for the use of all appropriate means, not to win a war, but to bring the Serbian aggressors to the peace table.

Mr. President, I thank the Chair, and urge adoption of the resolution, and yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 2929, AS MODIFIED

Mr. STEVENS. Mr. President, I have a modification to my amendment. It contains two technical amendments as suggested by the majority staff.

I ask that my amendment be modified. It changes the paragraph number and changes "are" to "may be."

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

At the end of the resolution, insert the following new section.

"(5) The United States Senate pledges to provide such funds as may be necessary for United States participation in such humanitarian relief and multilateral force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.".

Mr. STEVENS. Mr. President, I will use a portion of my time as allocated to me. I believe it is important to keep in mind what the Republican leader just said, that we are not dealing with a blank check. In October 1990, as Operation Desert Shield began, the Congress and the President entered into a budget agreement that recognized the possible extraordinary costs of that United States deployment to the Persian Gulf. To that end, Congress created a $15 billion reserve fund to be available only in an emergency to defray such costs. All Desert Shield-Desert Storm related costs were deemed to be off budget for the purpose of the budget summit agreement.

At this stage, of course, any discussion or assumption of costs for any potential United States deployment as part of a multilateral force concerned with the Bosnia question would be purely speculative. What is not speculative is the impact of any such deployment on our defense budget which is now pending before the Senate in the form of a Defense authorization bill. That bill makes no assumption of any large-scale overseas deployment of forces. As a matter of fact, I would call it a bare-bones budget. It was cut by $20 billion by the President from the 1992 level. In addition to that, this authorization bill has been reported by the Armed Services Committee to cut another $7 billion from the President's request.

In this context, any United States participation in a multilateral deployment to Bosnia will cost more than we are currently considering for defense in 1993. Let me emphasize that. Any multilateral deployment to Bosnia will cost the United States more than we are currently considering for defense in 1993.

The limited airlift role played by the Air Force so far has been accommodated within the training costs, the normal training budget, though such funds are now very tight as we end this fiscal year.

I want to make these comments not to plead for more money for defense, although I believe this year's level may come out to be too low, but I want to alert the Senate to this reality. Senator INOUYE, as chairman of our Defense Subcommittee, and I are working even now to figure out a way to report

a defense appropriations bill within the reduced 602(b) allocation that we have received. There will be no margin in that bill for this Bosnia operation or, as a matter of fact, for any other peacekeeping or war-stopping mission for the United States military forces. We will have to come back to the Senate for more money for any such events.

I do believe that we must support the President's initiative to attempt to bring peace to these warring States. But I want to make sure that we are aware of the fact that we do have severe budget problems. Those problems should not be linked to the decision on whether or not we attempt such an endeavor as participating in a multilateral force. If it is the right thing to do, we are going to do it, obviously, and this Senator is going to support this resolution.

But the Senate and the President must consider where we are going to get the money from. My amendment does one simple thing. It says, as we urge the President to bring about another meeting of the United Nations Security Council, as we urge the United Nations to create a multilateral force to demonstrate our consistent feeling about what is going on in Bosnia, we have to remember the Senate must do something, too, if these two events take place; and that is, we must be prepared to work out the funding for this operation.

Last night I put in the RECORD a series of comments from General MacKenzie, who is testifying before the Armed Services Committee now. I firmly believe that if we support the President now and we show solidarity to the leaders of the United Nations and to the perpetrators of the atrocities in Belgrade, we may not need to send one single U.S. soldier to participate in a multilateral military force now. I do believe that.

The amendment is important. But I also believe it is important for us to keep in mind that this time we pay the bill and, when we pay that bill, we cannot do so at the expense of all the Department of Defense operations to maintain peace elsewhere in the world. We will have to work out a new concept of financing for this operation.

I think that we really can only take one action to lend credence to our words. What we are saying is if the President acts in accordance with our urging, we will stand by him and the United Nations in working to bring peace, and we are prepared to pay that bill. We cannot issue a call to action without pledging our continued support for the costs that may be incurred in such action.

I pointed out last night that my amendment has no more standing than the resolution itself. It is a sense-of-the-Senate resolution. That is not an appropriation. This amendment in no way commits any Senator to any specific course of action. It indicates that morally we understand that we are bound to support our servicemen and women if they are sent overseas as part of a multilateral peacekeeping force.

I do believe the amendment should challenge Members who have come to the floor to exhort the President to action, to exhort the United Nations to action, to contemplate the full ramifications of the President and the United Nations listening to us. But it should strengthen the President's hand and reassure those in the United Nations and it should send an even more ringing message to both Serbia and Bosnia.

I do believe that it is necessary for us to adopt this amendment and to demonstrate that the Senate is willing to go on record that we will support the funding required if the action we contemplate is in fact found necessary by the United Nations and the President. We should not act except under a mandate from the United Nations in this instance and, if that is received, I believe we should indicate we are prepared to finance the operation.

How much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes and 15 seconds.

Mr. STEVENS. I yield 2 minutes and 15 seconds to my friend from New York. I pledge the other 5 minutes. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, my position as relates to this crisis I think is well known by my colleagues. I want to take the time now to commend the Senator from Alaska [Mr. STEVENS]. I intend to support his amendment. It is important that we do more than just verbalize our concerns. It is important that we do more than just urge the President to pursue a certain course of action with the United Nations and to move the United Nations into a policy of action to save people. It is important that this body understands that, indeed, there may be and there will be fiscal implications to our taxpayers and that we are willing to make the hard decisions and say, yes, it is not just rhetoric in the commitment we expect from others.

But we ourselves will be prepared to maybe make some decisions, and be called upon to make some decisions to provide the resources that are not going to be so easy. But we cannot just ask others to be courageous, and to do the things that we ourselves have a responsibility to do. It is the right amendment at the right time, and it is the right course of action that we are pursuing.

I commend the Senator from Alaska, and I ask to join with him as a cosponsor of his amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I yield to the Senator from Connecticut for 5 minutes.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] is recognized for 5 minutes.

Mr. LIEBERMAN. I thank the Senator from Rhode Island. I thank the Chair.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Shelley Cohen of my staff be permitted floor privileges for the remainder of this debate.

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

Mr. LIEBERMAN. Mr. President, I will say very briefly that Shelley has been with me for 2 years, has served the office, the State, and really the Nation with distinction.

She is leaving to go to graduate school. We wish her well in everything she does.

Mr. President, I rise to support the amendment offered by our colleague from Alaska, understanding that in my own opinion, action that might be engendered under this resolution by the U.S. military would be so limited that it could be met within existing appropriations to the Department of Defense.

But I am supporting this not so much as an exercise in appropriations but as an assumption of responsibility that in the resolution, we have expressed our values, our willingness to work with our allies in Europe to bring order to the new world order in the Balkans and beyond; but that we have, in a general sense, a responsibility to be prepared to put our money where our mouth is.

I think that Senator STEVENS has challenged us to do that with this amendment. I welcome the challenge, and I support the amendment, because what this entire resolution is about is responsibility. What is our responsibility as we watch the circumstances that are unfolding in the Balkans today?

Mr. President, there have been references in the debate to the history of conflict in that region, to the historic ethnic tensions, to the complexity of the conflict that is there, too. And, of course, all of that is true.

I think we know, not only in this situation but in so much that we do in this Chamber, so many judgments that we make, we cannot turn away from making judgments between what is better and what is worse, what is acceptable and what is unacceptable, particularly in situations that are complex. We are rarely handed a simple, factual situation. And so too, here.

Again, in this morning's paper, Peter Maass has two stories in the Washington Post, one from the Omarska Camp, with notes handed to him:

There's no doctor here. As soon as you get sick you are shot.

A handwritten note:

About 500 people have been killed here with sticks, hammers, and knifes. * * * Please help us. * * * Once there is no media attention focused on us, it is not known what will happen to us.

Yes, the Serbs, Moslems, and Croatians have had a history of tensions. But uniquely, in this country of Bosnia, under the leadership of the current Moslem President, President Izetbegovic, this has not been the case. I do not think we could blur that as we consider what our responsibility is here.

Peter Maass says, in this report from Bosnia today:

Unlike Croatian President Franjo Tudjman, whose strident nationalism gave Serbs there cause for fear, Izetbegovic eschewed stridency. As Bosnia declared its independence from the old six-republic Yugoslav federation, he championed a cantonal plan that would have given significant local powers to each of the three major communal groups and guaranteed minority rights to all.

Sarajevo and other Bosnian cities had been models of toleration until militant local Serb leaders stirred up fears of an Islamic power grab that would deprive Serbs of their ancient rights and lands. For centuries before, Muslims, Serbs and Croats had lived side by side in the same villages and apartment buildings and paid respects to each other on their respective religious holidays.

So to me there is a judgment to be made. The Serbs are aggressors. They have spoiled a nation that worked together, and we have to ask ourselves what is our responsibility, Mr. President? The question is as old as the conversation between God and Cain when God asked Cain: "Where is your brother?" Cain said: "I don't know. Am I my brother's keeper?" And God chastised Cain and said: "What are you telling me? I hear your brother's blood crying to me from the ground."

Mr. President, we hear the blood of our brothers and sisters crying to us from the ground of Bosnia today, and the question is as current as our responsibility in this country any time we confront random violence.

I have been thinking lately of that story of Kitty Genovese, that woman in New York who was attacked and raped in the middle of the night, who cried out. Later, investigators found that—if I remember correctly—37 people heard those cries, closed their windows, pulled down the blinds, went back to bed, and refused to even pick up the phone to call the police. They did not want to get involved. We were all outraged by that.

The question is whether now we are going to allow Bosnia to become the international Kitty Genovese. I say we cannot and we cannot because we know that once we allow an attacker, a rapist, to attack or rape someone we do not know, they will turn next on us and our families and our friends. It is true of the international community, as well.

Twice in this century an explosion has occurred in Europe that drew us inevitably in at a much higher cost in blood.

Mr. President, the reality is that we are tied historically and culturally to what happens in Europe. If we do not draw the line in the Balkans, there is a danger that is palpable that ethnic conflict will break out in a wider scale within what used to be the former Soviet Union, and we will be drawn into a far costlier battle.

This is all about responsibility. And this amendment focuses that responsibility.

Mr. President, finally I would say this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LIEBERMAN. Mr. President, I hope this amendment will be adopted as an expression of the willingness of this Senate, a majority herein, to accept that responsibility.

I am hopeful and confident that this afternoon, when we vote on the underlying resolution, a strong, bipartisan majority, understanding all the complexities involved in Bosnia, nonetheless will stand up and vote strongly as an expression of our responsibility and our intention to make sure that the new world order really does have order, and the hope of peace and security, not just for our generation, but for the generations to follow.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 7 minutes and 50 seconds.

The Senator from Alaska has 5 minutes and 30 seconds remaining.

Mr. PELL. Mr. President, I know that I welcome the amendment of the Senator from Alaska, and I believe that what he is doing is correct.

I would emphasize in connection with the debate yesterday that all the United States is expected to pay for is the United States share. It is not the cost of the total operation. I would also add, and I repeat again, the welcome fallout from this debate, from both the underlying resolution, and in the Senate from the amendment of the Senator from Alaska, is more references to the United Nations, to the Security Council, to enforcement arrangements, than I believe there has been in the history of the United Nations today.

I think, as we realize the necessity of relying on the United Nations, it will become an increasingly important player—a prime player—in the international scene, and more so with resolutions of this sort.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, is there any time for the opposition to this amendment?

The PRESIDING OFFICER. The time is divided between the Senator from Alaska and the Senator from Rhode Island.

Mr. BYRD. I would like to speak in opposition, Mr. President.

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank my friend.

Mr. President, the distinguished Senator from Connecticut [Mr. LIEBERMAN] has spoken to the effect that this is a question, an issue, of responsibility. I am not even paraphrasing his words very well, but I respect him greatly. Mr. President, the point is, the responsibility is that of the European nations, not the responsibility of our country.

Mr. President, I compliment the Senator from Alaska on his amendment. He is injecting a point of reality into the debate. He is talking about money. He is talking about paying the costs. He is saying that this body ought to say here and now—today—that we will stand up and vote for the appropriations that may be needed in the future—sight unseen, a pig in the poke. That is what we are buying, in effect, today.

But the able Senator from Alaska [Mr. STEVENS] is injecting a note of reality. I hope that Senators will approach the vote on the amendment soberly and also the vote on the resolution. I am opposed to the resolution. That is why I am opposed to the amendment, because there may come a day when we have to pay.

Yes, we are saddened daily by what we see occurring. But, Mr. President, again I say we cannot police the world. These things go on and on and on all down the river of time. Caesar, in his Gallic Wars, wrote of the massacre of 40,000 men, women, and children, old and young, the total population of one city—40,000. Only 800 escaped. Caesar, in his Gallic Wars, also stated that he auctioned off the entire population of another city in one lot—a total of 53,000 souls. Had we been living in that day, had the United States been a part of the world in that day, I suppose this body, if it had existed then, would have addressed the horrors that accompanied those conquests, the Roman conquests, and would have advocated a multilateral force to stop the fighting and the atrocities. These things will continue to happen as long as the world stands. What is going on in Somalia is likewise such a terror. Who is going to advocate that we put American men and women in Somalia if the U.N. mandates a multilateral force to stop that civil war?

Mr. President, we do not have the treasure in blood or in gold to police the whole world. This can cost billions of dollars, and if it comes time for the Senate to pay up to what in essence is a kind of commitment here today, then the Senators will have to retire again to their budget sheets and look at the deficits. They will have to explain to the American people again why we are sending their boys and girls into a guerrilla war.

We have to be concerned. Mr. President, the responsibility is on the Europeans. We can do some things, but let us not buy a pig in a poke. There are limits to what we can do.

I am issuing a warning that we had better take a look at what those limits are, and realize that the United States no longer is a country that is without a massive debt. This no longer is a country that confronts only small deficits. Let us fact up to reality.

I compliment the Senator from Alaska, but I shall vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska controls 15 minutes, 5 minutes on his amendment.

Mr. STEVENS. The distinguished Senator from Rhode Island has how much time?

The PRESIDING OFFICER. Two minutes.

Mr. STEVENS. Mr. President, I yield myself 5 minutes.

I appreciate the statement made by my good friend from West Virginia, and I understand his position well. It is not my desire to join him in that position in this instance. But I do want the Senate to face the total resolution with reality.

I read at length last night the statements that were made by General MacKenzie. I really believe that we have to keep in mind what we are getting into. For instance, I read from the congressional report concerning the aftermath of the action of the German forces in this area. Let me read again one paragraph from that report that talked about the period after the assassination of the Archduke Francis Ferdinand in Sarajevo in 1914. After the time the Germans had been in there—this is a quote:

> After the German conquest of Yugoslavia in 1941, Bosnia was annexed to the independent state of Croatia, a puppet state headed by the Croatian fascist Ustashe movement. The proclaimed goal of the Ustashe was to expel a third of the Serbs, convert a third to Catholicism, and kill the remainder.

I believe that the enmity and hatred in this area is so bad we have to be very realistic about the problem. The problem is, if we commit ourselves to a course of action to support the United Nations, and the United Nations does, in fact, end up mandating the use of force to liberate these camps, then we must realize what we are into. I, for one, am prepared to go that direction as long as everybody understands what is involved. General MacKenzie said it could be 20 years that we would have to have forces in there—20 years. On the other hand, it also could be, if the world unites and indicates that it will not countenance such action again in this century, that perhaps both the Serbs and their opponents will come to reality and sit down once again and try to work this out.

We have the ability in the united forces of both the United States and the United Nations, if we desire to do so, to level this area. I hope we do not have to do it.

But I want the Senate to know I want to be on record as saying there is a severe cost financially to this prospect. We are prepared to meet that cost if the United Nations follows our request upon the President's urging—it is demonstrated in his six points—and says to these combatants that the world will not tolerate this area becoming the flash point of World War III. I am prepared to support that. I hope the Senate is prepared to go on record as saying, yes, it will in fact finance these operations.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island has 2 minutes.

Mr. PELL. Mr. President, I think it would be useful to read into the RECORD the exact commitment that we are making here, the request that we are making. The way it reads is:

> The President should immediately call for an emergency meeting of the U.N. Security Council in order to authorize, under article 42 of the U.N. Charter, all necessary means, including the use of multilateral force under a Security Council mandate, during particular consideration to the possibility of demonstrations of force, to give effect to the Security Council decisions to ensure the provisions of humanitarian relief in Bosnia-Hercegovina, gain access for the U.N. and ICRC personnel to refugee and prisoner-of-war camps in the former Yugoslavia.

This is what we are asking for. We are asking for U.N. action and recommendations. Then if we see fit, we will go along with them.

What this whole exercise has done, in my mind, is to increase our faith in and our reliance upon the United Nations in the chapter 7 provision for the enforcement of the peace and the regaining of such peace.

I imagine my time has expired. I yield back any time remaining.

Mr. STEVENS addressed the Chair.

Mr. STEVENS. I, too, shall use the remainder of my time. At the time we had before us the Persian Gulf resolution, I spent a considerable amount of time reviewing the history of the United Nations and the commitments of those member nations to support the U.N. mandates. I told the Senate I was prepared to support the Kuwait resolution, because I believed it was following the original intent of the United Nations, and that we should understand that once we indicate our support for the United Nations' actions and we support a mandate such as was issued at that time, we are committed to support our action militarily, and we are committed to dispatch the forces that are necessary to carry out the mandate that we have sought from the United Nations.

I believe in the United Nations. I believe in the concept of being one of the leaders of the United Nations, and assuming our full responsibility. It is my understanding that we are not taking such action today. We are urging the President to seek a mandate through an emergency meeting of the Security Council. We know that there is a meeting scheduled now sometime later this week, and that we have now, today, a draft resolution that will be presented.

I must say, to this Senator, it is rather nebulous as to what really is before the United Nations now. It does not contemplate what I am hearing on the floor in terms of the specifics of the action to be undertaken. But my amendment simply says what the President decides is best, and I hope he will, once again, seek the support of Congress through a resolution, which should be supported by the Senate in terms of a commitment to provide the funds that are necessary.

Again, in my judgment, the funds are not there in the 1992 or 1993 budget to support such a massive action, if it in fact becomes necessary. Thus, this commitment, morally, is one that we should make to the President and to the United Nations.

Mr. BIDEN. Mr. President, I would like to briefly discuss with my friend from Alaska his amendment now pending. As I understand it, the amendment puts the Senate on record as pledging to provide whatever funding may be necessary to pay for United States participation in a multilateral force in Bosnia. Do I accurately characterize my friend's amendment.

Mr. STEVENS. The Senator from Delaware is correct.

Mr. BIDEN. If that is the purpose of his amendment, I have no objection to it. However, I want to make clear that this amendment should not be construed to confer authorization upon the President to use U.S. Armed Forces in a multilateral force that may be endorsed by the U.N. Security Council. It is my firm belief that once the U.N. Security Council endorses the use of force in Bosnia, the Congress must then provide a formal authorization to the President to deploy United States troops in any multilateral force. Neither this amendment nor the underlying resolution provides such an authorization.

Moreover, I want to make it clear that any defense appropriations—either current fiscal year funding or fiscal year 1993 appropriations—should not be interpreted as endorsing the use of United States forces in Bosnia. Only a statutory authorization, approved by both houses of Congress and signed by the President, can provide such authority.

Does the Senator from Alaska agree?

Mr. STEVENS. I agree with the Senator from Delaware. My amendment, let me reiterate, is designed to demonstrate that the United States must be prepared to pay its own way for any use of force in Bosnia. It does not imply any authorization to the President to deploy U.S. forces, and I agree with the Senator that the President should seek an authorization from Congress.

Mr. WARNER. Mr. President, I have just filed at the desk an amendment to the pending action by the Senate on the Bosnia resolution. The purpose of this amendment, which is No. 2930, is to conform the proposed resolution, nonbinding resolution, sense-of-the-Senate resolution on Bosnia, with the purported action to be taken tomorrow by the United Nations. I think it imperative, if it is the true desire of the Senate—and I accept the representations of the sponsors of the Senate resolution that it is to support the President of the United States in his actions before the United Nations.

One of the advantages of having this time interval of 4 or 5 days in which to have debated this resolution was to allow the United Nations, in consultation with world leaders, the Security Council, to come up with a resolution, which they now have, and which will be acted on, we are told, tomorrow.

At this moment the Senate Armed Services Committee is having a hearing, receiving testimony from a variety of witnesses on this issue. I shall at this time petition the leadership for an opportunity for members of the Armed Services Committee and members of the Intelligence Committee—that second committee is likewise at this hour holding hearings on Bosnia—to at least have a brief period in which to acquaint Senators with the very valuable testimony that is being received this morning by the Senate.

For the Senate to go ahead with this vote this afternoon at the scheduled hour without having the benefit of just a resume of this testimony in my judgment would be a mistake. So I now indicate my desire for the leadership to somehow adjust the time to allow just a few Members—if necessary only the chairmen of each committee, hopefully the ranking member would have some small amount of time—to acquaint the Senate with the testimony received both in the Armed Services Committee and Intelligence Committee.

But during the course of the deliberations in the Armed Services Committee hearing, which I just left momentarily, there has been a great deal of attention focused on the resolution pending before the Senate and the resolution in the United Nations, and it is clear that there is a difference. And the purpose of this amendment is to conform the amendment—the resolution before the Senate to that action we anticipate that will be taken by the United Nations tomorrow.

We are all joined in trying to bring about a cessation of atrocities which we have witnessed, now, and learned about in greater detail. And we are now learning this morning about added details of these atrocities. We want to act. We want to support our President and we want to support the United Nations. But I ask, Mr. President, that we do it consistent with what is to be done tomorrow by the United Nations. Otherwise we are moving off in two directions. And what we do not need now is confusion—confusion here in the Senate, confusion abroad as to why the Senate is moving in directions which are beyond those being taken by the United Nations.

I had under the unanimous-consent agreement an opportunity for a second amendment. I was not able to draw up that amendment until I knew with greater precision what the United Nation was doing. I now have had that opportunity to learn what the United Nations is doing, to draw the amendment, and I petitioned the leadership of the Senate and the managers of the pending resolution on Bosnia to consider on their own initiative accepting this amendment or to draw one up of their own so we are speaking with one voice, the Senate, the President, and the United Nations—and avoiding confusion.

Mr. President, I do hope the leadership will consider some opportunity for Senators to speak about the hearings this morning. We are learning new aspects of this conflict, a conflict between three religions, a conflict between three ethnic groups in the area of Bosnia, which is between Serbia—which has roots going back to the Ottoman Empire—and Croatia, which has its roots going back to the Austria-Hungarian empire. This small country, the size of two or three of our small States, has some of the most difficult terrain.

In the testimony this morning of the General of the Joint Chiefs of Staff, this terrain is exceedingly difficult to conduct military operations. Over 200,000 different people possess arms. There are five recognized armies. There are 20 warlords. That is the first time I have heard that mentioned—20 different warlords within this geographic area. And it is very difficult to find out who is fighting whom.

The testimony this morning indicated that, while the world is focusing on what Serbia is doing by way of atrocities to prisoners from Bosnia, there is also now testimony that an equal amount of atrocities—not equal, but atrocities in some magnitude are being committed by the other side on Serbian prisoners.

So I think there is much to be learned about this conflict. The Senate should try and inform itself as best it can before it makes this judgment. Because even though this is a nonbinding resolution, it is an act by this body and the nonbinding feature will, I think, be lost as the message travels across the ocean and will inspire hopes in this war-torn country, inspire hopes around the world for those of us who want to see the atrocities stopped.

Mr. President, I hope that the leadership will consider my two requests: First, that we consider an amendment in the nature of conforming with the U.N. action, with the Senate speaking; and, second, that members of the two committees be allowed to address the Senate, if only for a brief period, to share what we have learned by virtue of their testimony this morning.

I yield the floor.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD.

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

In the resolving clause, strike out paragraphs (1) and (2) and insert in lieu thereof the following:

"(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular attention to the possibility of "demonstrations" of force, to give effect to Security Council decisions to facilitate the provision of humanitarian relief in Bosnia-Hercegovina;

"(2) during such meeting, the Security Council should—

"(a) demand, and develop a plan to ensure, access for United Nations and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

"(b) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision;

"(c) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

"(d) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes.".

Mr. WARNER. Mr. President, the amendment which I have just sent to

the desk more clearly reflects the actions that our President is seeking from the U.N. Security Council than does the underlying resolution. For the past few days, we have heard statement after statement from the sponsors of the resolution that they are merely seeking to lend the Senate's support to the U.N. Security Council resolution on the use of force in Bosnia which was initiated by President Bush. If that is truly the intent of the sponsors of Senate Resolution 330, then they should embrace my amendment.

According to the testimony which the Senate Armed Services Committee has just received from Assistant Secretary of State Niles and Assistant Secretary of Defense Hadley, the Administration is seeking a U.N. Security Council resolution authorizing "all necessary means" to facilitate the delivery of humanitarian assistance. The United States will also press for a U.N. Security Council resolution demanding that international organizations be granted immediate and unimpeded access to all camps and detention centers. My amendment reflects these goals.

Where Senate Resolution 330 differs from my amendment and from the President's position as reflected in the resolution under consideration in the U.N. Security Council, is that Senate Resolution 330 calls for a U.N. Security Council resolution authorizing all necessary means to gain access to the camps. In my opinion, we do not have enough information at this point to commit to the use of force for that reason. At this point, we have no confirmation of the existence of death camps, although no one questions that atrocities have been committed; and, we are not even sure who is guilty of all of the atrocities. According to testimony we have received before the Senate Armed Services Committee from General MacKenzie, the former U.N. commander of UNPROFOR, all sides in the conflict are probably guilty of inhumane treatment of prisoners. While this is not a reason for inaction, it is an indication of the complexity of the situation in Bosnia and one of the reasons why I advise caution and the utilization of further political measures before we rush ahead with the commitment of U.S. military forces.

But perhaps more important, I believe that the Senate is considering the use of force without fully understanding the objectives of any military involvement, the resources that would be required to achieve those objectives, and the losses we could expect to suffer. I agree with the President that we are responsible for the lives of our soldiers, sailors, and airmen. We should take that responsibility very seriously.

Mr. President, I urge the Senate to agree to consideration of the amendment which I have sent to the desk. I believe that the amendment more accurately expresses the objectives of the resolution which the Security Council has under active consideration than does Senate Resolution 330. I support the very limited possible use of force as envisioned by the Security Council for the sole purpose of assisting in the delivery of humanitarian relief supplies. I do not support expanding the mission of any possible miltiary intervention at this time, given the paucity of information we have on the consequences of an expanded use of force. If Senators actually want to endorse the actions proposed by our President and endorsed by the United Nations, then they should vote for my amendment.

The PRESIDING OFFICER (Mr. WOFFORD). All time has expired.

Mr. BYRD. Mr. President, has all time expired?

The PRESIDING OFFICER. The Senators have used all their time.

Mr. BYRD. I did not understand that they had used all their time,

The PRESIDING OFFICER. They have used all their time.

Mr. STEVENS. If I may explain, last evening we did agree to shorten the time to 30 minutes this morning, and the time has expired. It is my understanding that the tax bill will come up now.

I ask for the yeas and nays on my amendment. There is a vote scheduled for 12:15.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I ask unanimous consent that I may proceed for 2 minutes.

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

Mr. BYRD. Mr. President, I thank the distinguished Senator from Alaska for injecting a note of reality into the debate.

Mr. President, I hope that Senators will read the amendment carefully. It says that "the United States Senate pledges to provide such funds as may be necessary for United States participation in such humanitarian relief and multilateral military force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution."

The U.S. Senate cannot today commit the U.S. Senate in the 103d Congress. We cannot commit future Congresses in this manner.

But, Mr. President, the Senators who vote for this amendment today and who will still be here in the next Congress, will certainly have made a commitment which, if the time ever comes that they have to face up to their pledge, will find it very difficult to back away from this commitment.

"To provide such funds as may be necessary." The sky is the limit. "Pursuant to such mandates as may be adopted by the United Nations Security Council." Not mandates adopted by the Senate, but "such funds as may be necessary * * * pursuant to such mandates as may be adopted by the United Nations Security Council."

I hope that Senators will look before they leap and vote against the amendment and against the resolution. I thank the Chair.

The PRESIDING OFFICER. All time has expired. A vote on the pending amendment will occur at 12:15 today.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed on my leader time for 2 minutes.

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

LAWRENCE WALSH—INDEPENDENT COUNSEL

Mr. DOLE. Mr. President, as Members of this body know, I have been quite critical in the past about Iran-Contra independent counsel Lawrence Walsh.

I have criticized him for the $35 million cost of his investigation. I have criticized him for not shutting his investigation down. I have criticized him for smearing the names of some outstanding public servants.

Despite all this, Mr. President, I never thought that one day I would be standing here to suggest that it's time to appoint an independent counsel to investigate the independent counsel.

Some here might not have seen the information recently discovered by Congressman GERALD SOLOMON, and reported in the media. Others might have glossed right over the information, since the investigation has been going on for so long that no one really cares.

So let me share the information with you.

Congressman SOLOMON obtained some of the vouchers and expense reports for Mr. Walsh and his crew—these vouchers confirm a point I have made before: That Mr. Walsh's inquisition is based in some of the most luxurious real estate in town—just how luxurious? Well, so far, the documents show that the taxpayers have shelled out $5.6 million for office space.

But not only does Mr. Walsh choose to work in the most expensive real estate, he also chooses to stay in expensive hotels. Now, that would be fine if he was paying the bill. But he doesn't. The taxpayers pay the bill.

Documents for the Office of Independent Counsel show that $655,000 has been spent on what is termed "per diem and subsistence."

And, apparently, up to $300,000 of this amount has been used to pay the personal living expenses of Judge Walsh and his chief deputy, Craig Gillen.

Those personal living expenses include Mr. Walsh's hotel bills at the Watergate Hotel, a countless number of $17 room service breakfasts, and room service dinners, which run between $25 to $40 each.

In fact, by Congressman SOLOMON'S calculations, you and I and all the rest of American taxpayers have shelled out $25,000 for Lawrence Walsh's breakfasts and $40,000 for Lawrence Walsh's dinners.

The taxpayers are paying Mr. Walsh's hotel and restaurant bills because Judge Walsh lists his principal duty station as Oklahoma City on his Government travel vouchers.

And Mr. Gillen, his full-time deputy who has really taken over the entire operation, lists his principal duty station as Atlanta.

They do this even though there is no Independent Counsel Office in Atlanta—and even though there's only a part-time one in Oklahoma City.

By listing their principal duty stations as Oklahoma City and Atlanta, Judge Walsh and Mr. Gillen are able to bill the taxpayers for their travel from Oklahoma City and Atlanta to Washington and back, and all their living expenses while in Washington.

Congressman SOLOMON has calculated that Mr. Gillen has collected at least $100,000—that is $100,000—in living and travel expenses above and beyond his legally established salary.

Congressman SOLOMON has also learned that Mr. Walsh and Mr. Gillen receive special rates from the corporation that owns the Watergate Hotel.

I guess I should not complain about this special discount, since it saves the taxpayers money—but I wonder if it might also qualify as an improper supplementation of salary.

There are other expenses that are coming to light: $881,000 in incidental expenses, $401,000 for maintenance, $698,000 for contractual services. The list goes on and on. And I think all of America can now understand why Mr. Walsh and Mr. Gillen are going on and on.

CPB AND THE PERCEPTION OF IMBALANCE

Mr. DOLE. Mr. President, I would like to bring to the attention of my colleagues a perceptive article by Brent Bozell that appeared in the August 4 edition of the Washington Times. In his article, "Moyers Under Glass," Mr. Bozell exposes the blatantly liberal record of Bill Moyers, one of the so-called stars of public broadcasting, and a future central to the so-called perception of journalistic imbalance on public television.

"I say there is one giant step toward correcting that perception," Mr. Bozell writes. "Dump Bill Moyers, or give a conservative as much air time as he gets. This incumbent needs a term limit."

Of course, despite all the promises, few people expect anything like that to happen. As Mr. Bozell argues, "doing nothing underlines that journalistic imbalance at PBS isn't a perception. It's a daily fact of life."

Now, I consider myself a supporter of public broadcasting. I have contributed personal funds to public television, and I supported the President's generous 3-year CPB funding request of $825 million. But whenever I or anyone else raises legitimate questions about public broadcasting's legal requirement of objectivity or about the taxpayer-subsidized video production empire that Bill Moyers says is none of the taxpayers business, we get hit with all kinds of nasty labels.

But some of us are getting a little tired of all the promises. It's time to turn the imbalance—perceived or not—into genuine objectivity.

I think we are all aware of the imbalance. Some do not like to talk about imbalance but it is there by public broadcasting subsidized by the taxpayers whether or not they agree with Mr. Moyers who made millions and millions of dollars out of this little effort. Of course he does not have to account for it, does not have to tell anybody, because they are not covered by the Freedom of Information Act.

Mr. President, I ask unanimous consent that Mr. Bozell's article be printed in the RECORD.

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

[From the Washington Times, Aug. 4, 1992]

MOYERS UNDER GLASS

(By Brent Bozell)

Sheila Tate, the new head of the Corporation of Public Broadcasting, began her tenure by announcing that public television would have to deal with its "perception" of journalistic imbalance. I say there is one giant step toward correcting that perception: Dump Bill Moyers, or give a conservative as much air time as he gets. This incumbent needs a term limit.

At a Jan. 6 press conference, Mr. Moyers, the preening PBS omnipresence, protested: "Anybody who looks at the bulk of my work over the last 20 years knows that it's a fallacious attack to find in it a left-wing agenda. . . . They've been able to offer no substantive analysis of my work that would confirm their desire to label [me] . . . a 'left-wing Democrat.'"

What a fraud. Conservatives have years of examples and books of transcripts to prove his left-wing bias. Try "The Secret Government," his 1987 documentary on the Iran-Contra affair. Mr. Moyers insisted it was a "terrorist war" the Contras were fighting where "old men, women and children are caught in the middle or deliberately killed as the Contras use violence against peasants." Mr. Moyers said nothing about the Sandinistas' human-rights record.

His most infamous hatchet job, the 1982 CBS documentary "People Like Us," was rebroadcast in 1989 on PBS, and Mr. Moyers added a new conclusion: "The poor and the working poor have born the brunt of the cost of the Reagan revolution. . . . Meanwhile, rich people got big tax breaks. And the middle class kept most of their subsidies intact. As a result, the Reagan years brought on a wider gap between rich and poor."

Don't even go back a few years. Look up his interview with Bill Clinton on his "Listening to America" program July 7: "What do you think the American people get for their government? We have no universal health care, we have no federal guarantee of higher education. . . . The regulatory agencies have in many cases been gutted. . . . Why not just say, 'We will have universal health care and we will raise taxes to pay for it?'"

How can Mr. Moyers deny a left-wing agenda?

Even far-left PBS critics have found in him one of their own. Jeff Cohen, head of the far-left group Fairness and Accuracy in Reporting (FAIR), told a C-SPAN interviewer: "Bill Moyers, of course, was an aide to a very conservative Democratic administration, now is very much, I would say, a liberal or progressive." Protesting PBS promotion of conservatives through "The McLaughlin Group" and "Firing Line," FAIR Washington activist Dennis Perrin argued on C-SPAN that Mr. Moyers is the only regularly scheduled left-wing activist on PBS: "The only example that you can point out to me is Bill Moyers, who, I will grant to you, is definitely left of center."

Remember, this is no mainstream left-wing group: They criticized "Nightline" for bringing on Sen. Christopher Dodd as an "insider opponent," an insufficiently liberal critic of U.S. policy in Nicaragua.

Mr. Moyers' partisan colors shined brightly during his stint as a CNN commentator at the Democratic National Convention. After Mario Cuomo's speech, he declared: "It's worth dying prematurely so you can hear somebody else do your eulogy if that somebody is Mario Cuomo."

Mr. Moyers also praised Jesse Jackson: "Now you know a speech like this reaches me. I'm from East Texas. My daddy was a New Deal Democrat, and I love the vibrations and the rhythms and the cadences and the power that he puts behind lost causes. But they've got to go beyond that."

Jerry Brown emerged as Mr. Moyers' preferred candidate: "I thought all through the primaries that Brown had the message—that this is a party that is spoiled, that this is a two-party system that is corrupt."

Of course, all this talk of greedy companies and corrupt governments is just Bill Moyers being a hypocrite. To this day, no one knows how many millions in profits he's made through his books and PBS Home Video cassettes, all of it thanks to the taxpayers who fund PBS. He's admitted raising more than $15 million for his company, Public Affairs Television, but when the public has demanded more knowledge of his PBS profits, Mr. Moyers replied that his company "is an independently owned production company—like so many others in the field—and our business affairs are none of your business."

Would Mr. Moyers say the same for other government contractors—say General Dynamics?

After all this, I don't expect Sheila Tate or anyone at CPB will actually even say anything to Bill Moyers about his record. But doing nothing underlines that journalistic imbalance at PBS isn't a "perception." It's a daily fact of life.

Mr. DOLE. I reserve the remainder of my leader's time.

TAX ENTERPRISE ZONES ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill, H.R. 11, which is to be considered at this time for debate only.

The legislative clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones and for other purposes.

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.

TITLE I—PROVISIONS RELATING TO DISTRESSED URBAN AND RURAL AREAS

Subtitle A—Urban Tax Enterprise Zones, Rural Development Investment Zones, and Indian Reservation Tax Enterprise Zones

Sec. 1101. Statement of purpose.
Sec. 1102. Designation and treatment of urban tax enterprise zones, rural development investment zones, and Indian reservation tax enterprise zones.
Sec. 1103. Tax enterprise zone bonds.
Sec. 1104. Expansion of targeted jobs credit.
Sec. 1105. Other provisions.
Sec. 1106. Effective date.

Subtitle B—Study

Sec. 1111. Study of effectiveness of tax enterprise zone incentives.

TITLE II—GROWTH INCENTIVES

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

SUBPART A—RESTORATION OF IRA DEDUCTION

Sec. 2001. Restoration of IRA deduction.
Sec. 2002. Inflation adjustment for deductible amount.
Sec. 2003. Coordination of IRA deduction limit with elective deferral limit.

SUBPART B—NONDEDUCTIBLE TAX-FREE IRAS

Sec. 2011. Establishment of nondeductible tax-free individual retirement accounts.

PART II—PENALTY-FREE DISTRIBUTIONS

Sec. 2021. Distributions from certain plans may be used without penalty to purchase first homes, to pay higher education or financially devastating medical expenses, or by the long-term unemployed.
Sec. 2022. Contributions must be held at least 5 years in certain cases.

Subtitle B—Economic Development Provisions

PART I—INVESTMENT IN REAL ESTATE

SUBPART A—MODIFICATION OF PASSIVE LOSS RULES

Sec. 2101. Modification of passive loss rules.

SUBPART B—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

Sec. 2111. Real estate property acquired by a qualified organization.
Sec. 2112. Special rules for investments in partnerships.
Sec. 2113. Title-holding companies permitted to receive small amounts of unrelated business taxable income.
Sec. 2114. Exclusion from unrelated business tax of gains from certain property.
Sec. 2115. Exclusion from unrelated business tax of certain fees and option premiums.
Sec. 2116. Treatment of pension fund investments in real estate investment trusts.

SUBPART C—FIRST-TIME HOMEBUYER CREDIT

Sec. 2121. Credit for purchase of principal residence by first-time homebuyer.

SUBPART D—DISCHARGE OF INDEBTEDNESS

Sec. 2131. Exclusion from gross income for income from discharge of qualified real property business indebtedness.

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

Sec. 2141. Employer-provided educational assistance.
Sec. 2142. Employer-provided group legal services plans.
Sec. 2143. Health insurance costs of self-employed individuals.
Sec. 2144. Qualified mortgage bonds.
Sec. 2145. Qualified small issue bonds.
Sec. 2146. Research credit.
Sec. 2147. Low-income housing credit.
Sec. 2148. Targeted jobs credit.
Sec. 2149. Tax credit for orphan drug clinical testing expenses.
Sec. 2150. Excise tax on certain vaccines.
Sec. 2151. Certain transfers to Railroad Retirement Account.

PART III—OTHER INCENTIVES

Sec. 2161. Special depreciation allowance for certain equipment acquired in 1992.
Sec. 2162. Elimination of ACE depreciation adjustment.

Subtitle C—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used In Noncommercial Boats

Sec. 2201. Repeal of luxury excise taxes other than on passenger vehicles.
Sec. 2202. Tax on diesel fuel used in noncommercial boats.

TITLE III—OFFSETTING REVENUE INCREASES

Subtitle A—General Provisions

Sec. 3001. Mark to market accounting method for securities dealers.
Sec. 3002. Individual estimated tax provisions.
Sec. 3003. Corporate estimated tax provisions.
Sec. 3004. Disallowance of interest on certain overpayments of tax.
Sec. 3005. Clarification of treatment of certain FSLIC financial assistance.
Sec. 3006. Reporting requirements with respect to certain apportioned real estate taxes.
Sec. 3007. Repeal of special rules for rental use of dwelling for less than 15 days per year.
Sec. 3008. Increase in recovery period for nonresidential real property.
Sec. 3009. Information reporting of real property taxes.
Sec. 3010. Modifications to deductions for certain moving expenses.
Sec. 3011. Increase in excise tax on wagering.
Sec. 3012. Classification of certain interest as stock or indebtedness.
Sec. 3013. Recognition of precontribution gain in case of certain distribution to contributing partner.
Sec. 3014. Denial of deduction relating to travel expenses.
Sec. 3015. Increased base tax rate on ozone-depleting chemicals.

Subtitle B—Extension of Existing Provisions

Sec. 3101. Extension of top estate and gift tax rates.
Sec. 3102. Extension of phaseout of personal exemption for high-income taxpayers.
Sec. 3103. Extension of overall limitation on itemized deductions for high-income taxpayers.

Subtitle C—Alternative Taxable Years

Sec. 3201. Election of taxable year other than required taxable year.
Sec. 3202. Required payments for entities electing not to have required taxable year.
Sec. 3203. Limitation on certain amounts paid to employee-owners of personal service corporations.
Sec. 3204. Effective date.

Subtitle D—Withholding Provisions

Sec. 3301. Increase in withholding from supplemental wage payments.
Sec. 3302. Increased withholding on gambling winnings.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

Sec. 4101. Simplification of rules on rollover of gain on sale of principal residence in case of divorce or frozen deposits.
Sec. 4102. Modifications to election to include child's income on parent's return.
Sec. 4103. Simplified foreign tax credit limitation for individuals.
Sec. 4104. Treatment of personal transactions by individuals under foreign currency rules.
Sec. 4105. Exclusion of combat pay from withholding limited to amount excludable from gross income.
Sec. 4106. Expanded access to simplified income tax returns.
Sec. 4107. Treatment of certain reimbursed expenses of rural mail carriers.
Sec. 4108. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals.
Sec. 4109. Simplification of earned income tax credit.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

Sec. 4201. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 4202. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 4203. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 4204. Required distributions.

PART II—INCREASED ACCESS TO PENSION PLANS

Sec. 4211. Modifications of simplified employee pensions.
Sec. 4212. PRIME accounts.
Sec. 4213. Tax exempt organizations eligible under section 401(k).

PART III—NONDISCRIMINATION PROVISIONS

Sec. 4221. Definition of highly compensated employees.
Sec. 4222. Election to treat base pay as compensation.
Sec. 4223. Modification of additional participation requirements.
Sec. 4224. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

PART IV—MISCELLANEOUS SIMPLIFICATION

Sec. 4231. Treatment of leased employees.
Sec. 4232. Elimination of half-year requirements.
Sec. 4233. Modifications of cost-of-living adjustments.
Sec. 4234. Plans covering self-employed individuals.

Sec. 4235. Full-funding limitation of multiemployer plans.
Sec. 4236. Alternative full-funding limitation.
Sec. 4237. Distributions under rural cooperative plans.
Sec. 4238. Treatment of governmental plans under section 415.
Sec. 4239. Use of excess assets of black lung benefit trusts for health care benefits.
Sec. 4240. Reports of pension and annuity payments.
Sec. 4241. Contributions on behalf of disabled employees.
Sec. 4242. Affiliated employers.
Sec. 4243. Disaggregation of union plans.
Sec. 4244. Uniform retirement age.
Sec. 4245. Special rules for plans covering pilots.
Sec. 4246. National commission on private pension plans.
Sec. 4247. Church plans.
Sec. 4248. Coordination of elective deferral and section 457 limits.
Sec. 4249. Date for adoption of plan amendments.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

Sec. 4301. Simplified flow-through for large partnerships.
Sec. 4302. Simplified audit procedures for large partnerships.
Sec. 4303. Due date for furnishing information to partners of large partnerships.
Sec. 4304. Returns may be required on magnetic media.
Sec. 4305. Effective date.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

Sec. 4311. Treatment of partnership items in deficiency proceedings.
Sec. 4312. Partnership return to be determinative of audit procedures to be followed.
Sec. 4313. Provisions relating to statute of limitations.
Sec. 4314. Expansion of small partnership exception.
Sec. 4315. Exclusion of partial settlements from 1 year limitation on assessment.
Sec. 4316. Extension of time for filing a request for administrative adjustment.
Sec. 4317. Availability of innocent spouse relief in context of partnership proceedings.
Sec. 4318. Determination of penalties at partnership level.
Sec. 4319. Provisions relating to court jurisdiction, etc.
Sec. 4320. Treatment of premature petitions filed by notice partners or 5-percent groups.
Sec. 4321. Bonds in case of appeals from TEFRA proceeding.
Sec. 4322. Suspension of interest where delay in computational adjustment resulting from TEFRA settlements.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

Sec. 4401. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 4402. Replacement for passive foreign investment company rules.
Sec. 4403. Technical and conforming amendments.
Sec. 4404. Effective date.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Sec. 4411. Gain on certain stock sales by controlled foreign corporations treated as dividends.
Sec. 4412. Authority to prescribe simplified method for applying section 960(b)(2).
Sec. 4413. Miscellaneous modifications to subpart F.

PART III—OTHER PROVISIONS

Sec. 4421. Exchange rate used in translating foreign taxes.
Sec. 4422. Election to use simplified section 904 limitation for alternative minimum tax.
Sec. 4423. Modification of section 1491.
Sec. 4424. Modification of section 367(b).

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

Sec. 4501. Determination of whether corporation has 1 class of stock.
Sec. 4502. Authority to validate certain invalid elections.
Sec. 4503. Treatment of distributions during loss years.
Sec. 4504. Other modifications.
Sec. 4505. Certain trusts permitted to be shareholders in S corporations.

PART II—ACCOUNTING PROVISIONS

Sec. 4511. Modifications to look-back method for long-term contracts.
Sec. 4512. Simplified method for capitalizing certain indirect costs.
Sec. 4513. Treatment of certain amounts received by operators of licensed cotton warehouses.

PART III—TAX-EXEMPT BOND PROVISIONS

Sec. 4521. Repeal of $100,000 limitation on unspent proceeds under 1-year exception from rebate.
Sec. 4522. Exception from rebate for earnings on bona fide debt service fund under construction bond rules.
Sec. 4523. Aggregation of issues rules not to apply to tax or revenue anticipation bonds.
Sec. 4524. Allocation of interest expense of financial institutions to tax-exempt interest.
Sec. 4525. Tax treatment of 501(c)(3) bonds similar to governmental bonds.
Sec. 4526. Authority to terminate required inclusion of tax-exempt interest on return.
Sec. 4527. Tax-exempt financing for United Nations office buildings.
Sec. 4528. Repeal of expired provisions.
Sec. 4529. Authority to waive yield restrictions on tax-exempt bond arbitrage.
Sec. 4530. Effective date.

PART IV—INSURANCE PROVISIONS

Sec. 4531. Treatment of certain insurance contracts on retired lives.
Sec. 4532. Treatment of modified guaranteed contracts.

PART V—COOPERATIVES

Sec. 4541. Discharge of indebtedness income from prepayment of REA loans.
Sec. 4542. Treatment of certain amounts received by a cooperative telephone company.
Sec. 4543. Tax treatment of cooperative housing corporations.
Sec. 4544. Treatment of safe harbor leases involving rural electric cooperatives.

PART VII—TREATMENT OF INTANGIBLES

Sec. 4551. Amortization of goodwill and certain other intangibles.
Sec. 4552. Treatment of certain payments to retired or deceased partner.

PART VIII—OTHER PROVISIONS

Sec. 4561. Closing of partnership taxable year with respect to deceased partner.
Sec. 4562. Repeal of special treatment of ownership changes in determining adjusted current earnings.
Sec. 4563. Authorization for Bureau of Land Management use of Reforestation Trust Fund.
Sec. 4564. Private foundations permitted to use common investment funds.
Sec. 4565. Modification of credit for producing fuel from a nonconventional source.

Subtitle F—Estate And Gift Tax Provisions

Sec. 4601. Clarification of waiver of certain rights of recovery.
Sec. 4602. Adjustments for gifts within 3 years of decedent's death.
Sec. 4603. Clarification of qualified terminable interest rules.
Sec. 4604. Treatment of portions of property under marital deduction.
Sec. 4605. Transitional rule under section 2056a.
Sec. 4606. Opportunity to correct certain failures under section 2032a.
Sec. 4607. Repeal of certain throwback rules applicable to domestic trusts.
Sec. 4608. Certain cash rentals of farmland not to cause recapture of special estate tax valuation.
Sec. 4609. Interest accruing on sales between family members.

Subtitle G—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

Sec. 4701. Repeal of certain retail and use taxes.
Sec. 4702. Revision of fuel tax credit and refund procedures.
Sec. 4703. Authority to provide exceptions from information reporting with respect to diesel fuel and aviation fuel.
Sec. 4704. Technical and conforming amendments.
Sec. 4705. Effective date.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

Sec. 4711. Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.
Sec. 4712. Authority to cancel or credit export bonds without submission of records.
Sec. 4713. Repeal of required maintenance of records on premises of distilled spirits plant.
Sec. 4714. Fermented material from any brewery may be received at a distilled spirits plant.
Sec. 4715. Repeal of requirement for wholesale dealers in liquors to post sign.
Sec. 4716. Refund of tax to wine returned to bond not limited to unmerchantable wine.
Sec. 4717. Use of additional ameliorating material in certain wines.
Sec. 4718. Domestically-produced beer may be withdrawn free of tax for use of foreign embassies, legations, etc.
Sec. 4719. Beer may be withdrawn free of tax for destruction.
Sec. 4720. Authority to allow drawback on exported beer without submission of records.
Sec. 4721. Transfer to brewery of beer imported in bulk without payment of tax.

PART III—OTHER EXCISE TAX PROVISIONS

Sec. 4731. Authority to grant exemptions from registration requirements.
Sec. 4732. Small manufacturers exempt from firearms excise tax.
Sec. 4733. Repeal of expired provisions.
Sec. 4734. Exemption for transportation on certain ferries.
Sec. 4735. Application of certain taxes to certain business aircraft.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

Sec. 4801. Simplification of employment taxes on domestic services.
Sec. 4802. Use of reproductions of returns stored in digital image format.
Sec. 4803. Repeal of authority to disclose whether prospective juror has been audited.
Sec. 4804. Repeal of special audit provisions for subchapter S items.
Sec. 4805. Clarification of statute of limitations.

PART II—TAX COURT PROCEDURES

Sec. 4811. Overpayment determinations of tax court.
Sec. 4812. Awarding of administrative costs.
Sec. 4813. Redetermination of interest pursuant to motion.
Sec. 4814. Application of net worth requirement for awards of litigation costs.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

Sec. 4821. Cooperative agreements with State tax authorities.

PART IV—EMPLOYMENT TAX PROVISION

Sec. 4831. Clarification of employment tax status of certain fishermen.

TITLE V—TAXPAYER BILL OF RIGHTS

Sec. 5000. Short title.

Subtitle A—Taxpayer Advocate

Sec. 5001. Establishment of position of Taxpayer Advocate within Internal Revenue Service.
Sec. 5002. Expansion of authority to issue taxpayer assistance orders.

Subtitle B—Modifications to Installment Agreement Provisions

Sec. 5101. Notification of reasons for termination or denial of installment agreements.
Sec. 5102. Administrative review of denial of request for, or termination of, installment agreement.

Subtitle C—Interest

Sec. 5201. Expansion of authority to abate interest.
Sec. 5202. Extension of interest-free period for payment of tax after notice and demand.

Subtitle D—Joint Returns

Sec. 5301. Disclosure of collection activities.
Sec. 5302. Joint return may be made after separate returns without full payment of tax.

Subtitle E—Collection Activities

Sec. 5401. Modifications to lien and levy provisions.
Sec. 5402. Offers-in-compromise.
Sec. 5403. Notification of examination.
Sec. 5404. Modification of certain limits on recovery of civil damages for unauthorized collection actions.
Sec. 5405. Safeguards relating to designated summons.

Subtitle F—Information Returns

Sec. 5501. Phone number of person providing payee statements required to be shown on such statement.
Sec. 5502. Civil damages for fraudulent filing of information returns.
Sec. 5503. Requirement to verify accuracy of information returns.

Subtitle G—Modifications to Penalty for Failure to Collect and Pay Over Tax

Sec. 5601. Preliminary notice requirement.
Sec. 5602. No penalty if prompt notification of the Secretary.
Sec. 5603. Disclosure of certain information where more than 1 person subject to penalty.
Sec. 5604. Penalties under section 6672.

Subtitle H—Awarding of Costs and Certain Fees

Sec. 5701. Motion for disclosure of information.
Sec. 5702. Increased limit on attorney fees.
Sec. 5703. Failure to agree to extension not taken into account.
Sec. 5704. Effective date.

Subtitle I—Other Provisions

Sec. 5801. Required content of certain notices.
Sec. 5802. Treatment of substitute returns under section 6651.
Sec. 5803. Relief from retroactive application of Treasury Department regulations.
Sec. 5804. Required notice of certain payments.
Sec. 5805. Unauthorized enticement of information disclosure.

Subtitle J—Form Modifications; Studies

Sec. 5900. Definitions.

PART I—FORM MODIFICATIONS

Sec. 5901. Explanation of certain provisions.
Sec. 5902. Improved procedures for notifying service of change of address or name.
Sec. 5903. Rights and responsibilities of divorced individuals.

PART II—STUDIES

Sec. 5911. Pilot program for appeal of enforcement actions.
Sec. 5912. Study on taxpayers with special needs.
Sec. 5913. Reports on taxpayer-rights education program.
Sec. 5914. Biennial reports on misconduct by Internal Revenue Service employees.
Sec. 5915. Study of notices of deficiency.
Sec. 5916. Notice and form accuracy study.
Sec. 5917. Internal Revenue Service employees' suggestions study.

TITLE VI—TECHNICAL CORRECTIONS

Sec. 6100. Coordination with other titles.

Subtitle A—Revenue Provisions

Sec. 6101. Amendments related to Revenue Reconciliation Act of 1990.
Sec. 6102. Miscellaneous provisions.
Sec. 6103. Pension technicals.

Subtitle B—Corrections Relating to Social Security, Income Security and Human Resources, and Medicare

PART I—SOCIAL SECURITY

Sec. 6201. Technical corrections related to OASDI in the Omnibus Budget Reconciliation Act of 1990.

PART II—INCOME SECURITY AND HUMAN RESOURCES

Sec. 6211. Repeal of provision inadvertently included in the Omnibus Budget Reconciliation Act of 1990.
Sec. 6212. Corrections related to the income security and human resources provisions of the Omnibus Budget Reconciliation Act of 1990.
Sec. 6213. Redesignation of certain provisions.
Sec. 6214. Modification to Federal unemployment accounts.

PART III—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 6220. References to OBRA-1990; references to Social Security Act; effective date.

SUBPART A—AMENDMENTS RELATING TO PART A OF THE MEDICARE PROGRAM

Sec. 6221. Clarification of DRG payment window expansion (section 4003 of OBRA-1990).
Sec. 6222. Essential access community hospital program.
Sec. 6223. Treatment of certain military facilities.
Sec. 6224. Technical correction relating to nursing home reform (section 4008 of OBRA-1990).

SUBPART B—AMENDMENTS RELATING TO PART B OF THE MEDICARE PROGRAM

Sec. 6231. Physician payment provisions (sections 4101 through 4118 of OBRA-1990).
Sec. 6232. Services furnished in ambulatory surgical centers (section 4151 of OBRA-1990).
Sec. 6233. Durable medical equipment (section 4152 of OBRA-1990).
Sec. 6234. Other part B items and services (sections 4154 through 4164 of OBRA-1990).

SUBPART C—AMENDMENTS RELATING TO PARTS A AND B

Sec. 6241. Provisions relating to parts A and B (sections 4201 through 4207 of OBRA-1990).

SUBPART D—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 6251. Corrections relating to medicare supplemental insurance policies (sections 4351 through 4361 of OBRA-1990).

Subtitle C—Tariff and Customs

Sec. 6301. Technical amendments to the Harmonized Tariff Schedule of the United States.
Sec. 6302. Clarification regarding the application of customs user fees.
Sec. 6303. Technical amendments to the Omnibus Trade and Competitiveness Act of 1988.
Sec. 6304. Technical amendment to the Customs and Trade Act of 1990.
Sec. 6305. Technical amendments regarding certain beneficiary countries.
Sec. 6306. Clarification of fees for certain customs services.

TITLE VII—INCOME SECURITY AND RELATED PROGRAMS

Sec. 7000. Amendment of Social Security Act.

Subtitle A—Miscellaneous Improvements in the Old-Age, Survivors, and Disability Insurance Program

Sec. 7001. Use of social security numbers by States and local governments for jury selection purposes.
Sec. 7002. Repeal of the facility-of-payment provision.
Sec. 7003. Comparable severity disability for children under disability insurance program.
Sec. 7004. Increased penalties for unauthorized disclosure of social security information.

Subtitle B—Foster Care; Substance Abuse Prevention and Treatment; and Related Programs

PART I—FOSTER CARE, ADOPTION, AND CHILD WELFARE SERVICES

Sec. 7101. Innovative child and family services programs.
Sec. 7102. Demonstration projects to improve coordination of services.
Sec. 7103. Foster care and adoption assistance.
Sec. 7104. Adoption expense deduction.
Sec. 7105. Study of reasonable efforts requirement by advisory committee.
Sec. 7106. Case review system requirement.
Sec. 7107. Demonstration project to facilitate the reunification of a child with his or her family.
Sec. 7108. Data collection systems.
Sec. 7109. Independent living.
Sec. 7110. Training activities.
Sec. 7111. Health care plans for foster children.
Sec. 7112. Child welfare demonstration projects.
Sec. 7113. Home rebuilders demonstration project.

Sec. 7114. Child welfare services program reviews.
Sec. 7115. Child welfare review system.
Sec. 7116. Payment of State claims for foster care and adoption assistance.
Sec. 7117. Commission on Childhood Disability.
PART II—PROVISIONS RELATING TO COMPREHENSIVE SUBSTANCE ABUSE PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS WITH CHILDREN
Sec. 7121. Comprehensive substance abuse treatment programs for pregnant women and caretaker parents.
PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN
Sec. 7131. Disregard of income and resources designated for education, training, and employability.
Sec. 7132. Disregard of income and resources related to self-employment.
Sec. 7133. Delay in requirement that outlying areas operate an AFDC-UP program.
Sec. 7134. State option to use retrospective budgeting without monthly reporting.
PART IV—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM
Sec. 7141. Funding for the JOBS program.
Sec. 7142. Expansion of coverage for Indian tribes.
Sec. 7143. Assignment of individuals to work supplementation program.
PART V—COMMUNITY WORKS PROGRESS DEMONSTRATIONS.
Sec. 7151. Community works progress demonstration projects.
PART VI—SUPPLEMENTAL SECURITY INCOME
Sec. 7161. Prevention of adverse effects on eligibility for, and amount of, SSI benefits when spouse or parent of beneficiary is absent from the household due to active military service.
Sec. 7162. Eligibility for children of armed forces personnel residing outside the United States other than in foreign countries.
Sec. 7163. Definition of disability for children under age 18 applied to all individuals under age 18.
Sec. 7164. Valuation of certain in-kind support and maintenance when there is a cost of living adjustment in SSI benefits.
Sec. 7165. Elimination of obsolete provisions relating to treatment of the earned income tax credit.
PART VII—OTHER INCOME SECURITY PROVISIONS
Sec. 7171. Measurement and reporting of welfare dependency.
Sec. 7172. Extension of National Commission on Children.
Sec. 7173. Secretarial report on the differences in program rules under the Food Stamp, Aid to Families With Dependent Children, and Medicaid programs.
Sec. 7174. Adult in family or household allowed to attest to citizenship status of family or household members under AFDC and Medicaid.
Sec. 7175. Exclusion from income of $4,000 of income received in any year by Indians from interests individually held in trust or restricted lands.
Sec. 7176. Extension of demonstration to expand job opportunities.
Sec. 7177. Disclosure of information to Railroad Retirement Board.
Sec. 7178. Improvement and clarification of provisions prohibiting misuse of symbols, emblems, or names in reference to Social Security, Supplemental Security Income, Medicare, Medicaid, or the Department of Health and Human Services.
TITLE VIII—MISCELLANEOUS PROVISIONS
Subtitle A—Charitable Contribution Provisions
Sec. 8001. Alternative minimum tax treatment.
Sec. 8002. Allocation of deduction for charitable contributions.
Sec. 8003. Substantiation requirement for deduction of certain charitable contributions.
Sec. 8004. Disclosure related to quid pro quo contributions.
Sec. 8005. Exclusion from unrelated business taxable income for certain sponsorship payments.
Subtitle B—Foreign Provisions
Sec. 8101. Treatment of certain dividends of regulated investment companies received by nonresident aliens and foreign corporations.
Sec. 8102. Election to be exempt from 90-percent limitation on minimum tax foreign tax credit.
Sec. 8103. Allocation of interest expense in case of affiliated groups including regulated gas or electric utilities.
Sec. 8104. Treatment of commodity transaction under Subpart F.
Sec. 8105. International competitiveness.
Subtitle C—Other Revenue Provisions
Sec. 8201. Income exclusion for education bonds expanded.
Sec. 8202. Tax treatment of payments under life insurance contracts for terminally ill individuals.
Sec. 8203. Basis adjustment for disallowed losses on prior sales of principal residences.
Sec. 8204. Limitation on State taxation of certain pension income.
Sec. 8205. Credit for portion of employer social security taxes paid with respect to employee cash tips.
Sec. 8206. Clarification of treatment of veterans' benefits.
Sec. 8207. Study of semi-conductor manufacturing equipment.
Sec. 8208. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.
Sec. 8209. Nonrecognition treatment for certain transfers by regulated investment companies to common trust funds.
Sec. 8210. Tax-free sales of trucks assembled by educational organizations.
Sec. 8211. Treatment of cancellation of certain student loans.
Sec. 8212. Mount Rushmore Commemorative Coin Act.
Sec. 8213. Fringe benefits of airline affiliate employees.
Sec. 8214. Treatment of partnership investment expenses under minimum tax.
Sec. 8215. Treatment of unpaid child support.
Sec. 8216. Treatment of not-for-profit residual market insurance companies.

TITLE I—PROVISIONS RELATING TO DISTRESSED URBAN AND RURAL AREAS

Subtitle A—Urban Tax Enterprise Zones, Rural Development Investment Zones, and Indian Reservation Tax Enterprise Zones

SEC. 1101. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses, and

(2) to promote meaningful employment for tax enterprise zone residents.

SEC. 1102. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES, RURAL DEVELOPMENT INVESTMENT ZONES, AND INDIAN RESERVATION TAX ENTERPRISE ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Tax Enterprise Zones

"Part I. Designation of tax enterprise zones.
"Part II. Incentives for tax enterprise zones.

"PART I—DESIGNATION OF TAX ENTERPRISE ZONES

"Sec. 1391. Designation procedure.
"Sec. 1392. Eligibility and selection criteria.
"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

"(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

"(2) designated by—

"(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone,

"(B) the Secretary of Agriculture, in consultation with the Secretary of the Interior, in the case of a rural development investment zone, and

"(C) the Secretary of the Interior in the case of an Indian reservation tax enterprise zone.

"(b) NUMBER OF DESIGNATIONS.—

"(1) AGGREGATE LIMIT.—The appropriate Secretaries shall designate 25 nominated areas as tax enterprise zones under this section, of which 15 shall be urban tax enterprise zones, 8 shall be rural development investment zones, and 2 shall be Indian reservation tax enterprise zones. Such designations may be made only during calendar years after 1992 and before 1997 and shall be subject to the availability of eligible nominated areas.

"(2) ANNUAL LIMITS.—

"(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 6,

"(ii) in calendar year 1994 shall not exceed the sum of 4 plus the carryover amount for such year,

"(iii) in calendar year 1995 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 2 plus the carryover amount for such year.

"(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 3,

"(ii) in calendar year 1994 shall not exceed the sum of 2 plus the carryover amount for such year,

"(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 1 plus the carryover amount for such year.

"(C) INDIAN RESERVATION TAX ENTERPRISE ZONES.—The number of Indian reservation tax enterprise zones under paragraph (1)—

"(i) in calendar year 1993 shall not exceed 1,

"(ii) in calendar year 1994 shall not exceed the sum of 1 plus the carryover amount for such year, and

"(iii) in calendar years 1995 and 1996 shall not exceed the carryover amount for such year.

"(D) CARRYOVER AMOUNT.—For purposes of subparagraphs (A), (B), and (C), the carryover amount for any calendar year shall be equal to the amount by which—

"(i) the limitation under such subparagraph for the preceding calendar year, exceeds

"(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

"(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year after 1992 shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

"(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

"(1) the local governments and the State in which the nominated area is located have the authority—

"(A) to nominate the area for designation as a tax enterprise zone, and

"(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

"(2) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(3) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 10th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—

"(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

"(i) has significantly modified the boundaries of the area, or

"(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

"(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record at which officials of the State or local government are given the opportunity to participate and after an opportunity for the State or local government to correct any deficiencies the Secretary determines under subparagraph (A).

"(C) REVOCATION TO BE PROSPECTIVE.—Any revocation under subparagraph (A) shall not take effect before the date of the final determination under subparagraph (A) (after application of subparagraph (B)).

"SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

"(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

"(b) ELIGIBILITY CRITERIA.—

"(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area (and any portion of which is not located on an Indian reservation) shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the 1990 or subsequent census data) of not less than 20,000.

"(B) DISTRESS.—The nominated area is one of pervasive unemployment and general distress.

"(C) SIZE.—The nominated area—

"(i) is one contiguous area, and

"(ii) is located within not more than 2 States.

"(D) POVERTY RATE.—The poverty rate (as determined by the 1990 or subsequent census data)—

"(i) for each population census tract within the nominated area is not less than 25 percent, and

"(ii) for not less than 80 percent of the population census tracts within the nominated area is not less than 35 percent.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the 1990 or subsequent census data) of not less than 10,000.

"(B) ADDITIONAL CRITERIA.—The criteria set forth in subparagraphs (B), (C), (D), and (E) of paragraph (1).

"(3) INDIAN RESERVATION TAX ENTERPRISE ZONES.—A nominated area which is an Indian reservation tax enterprise zone shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) SIZE.—The nominated area—

"(i) is located on an Indian reservation,

"(ii) is one contiguous area, and

"(iii) is located within not more than 2 States.

"(B) ADDITIONAL CRITERIA.—The criteria set forth in subparagraphs (B), (D), and (E) of paragraph (1).

"(4) SPECIAL RULE WITH RESPECT TO COURSE OF ACTION CRITERIA.—In the case of a nominated area which is—

"(A) described in paragraph (2) and is located on an Indian reservation, or

"(B) described in paragraph (3),

the criteria set forth in subparagraph (E) of paragraph (1) shall apply only to the extent the reservation governing body has legal authority to comply with such criteria.

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and nongovernmental entities, may not be funded from proceeds of any Federal program (other than discretionary proceeds), and—

"(A) shall include—

"(i) a certification by the State insurance commissioner (or similar State official) that basic commercial property insurance of a type comparable to that insurance generally in force in urban or rural areas, whichever is applicable, throughout the State is available to businesses within the tax enterprise zone,

"(ii) a program to ensure the necessary rehabilitation of publicly owned property within the tax enterprise zone,

"(iii) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(iv) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(v) the giving of special preference to contractors owned and operated by members of any socially and economically disadvantaged group (within the meaning of section 8(a) of the Small Business Act (15 U.S.C. 637(a)), in connection with an activity any part of which occurs within the tax enterprise zone,

"(vi) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on locally-owned businesses and on small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(vii) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(viii) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146, and

"(B) may include—

"(i) a reduction of tax rates or fees applying within the tax enterprise zone,

"(ii) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land, and

"(iii) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area outside the nominated area to the nominated area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—

"(1) ELIGIBILITY.—The appropriate Secretary shall make a determination as to whether a nominated area meets the eligibility requirements under subsection (b) for designation as a tax enterprise zone.

"(2) DESIGNATION.—From among the nominated areas determined to be eligible for designation under paragraph (1), the appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight).

"(A) STATE AND LOCAL COMMITMENTS.—The strength and quality of the commitments which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(B) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out, including the specificity with which the commitments under subparagraph (A) are described in order that the applicable Secretary will be better able to determine annually under section 1391(d)(2)(A)(ii) whether the commitments are being carried out.

"(C) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(D) LEVELS OF POVERTY AND DISTRESS.—The relative levels of distress and poverty under subparagraphs (B) and (D) of subsection (b)(1).

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) INDIAN RESERVATION TAX ENTERPRISE ZONE.—The term 'Indian reservation tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(3).

"(4) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(5) INDIAN RESERVATION.—The term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(6) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(7) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(8) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of the Interior, to be a rural area.

Such term may include an area within an Indian reservation.

"(9) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones,

"(B) the Secretary of Agriculture in the case of rural development investment zones, and

"(C) the Secretary of the Interior in the case of Indian reservation tax enterprise zones.

"(10) POPULATION CENSUS TRACTS.—If areas are not tracted as population census tracts, the equivalent county divisions as defined by the Bureau of the Census for purposes of defining poverty areas shall be treated as population census tracts.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credits.

"SUBPART B. Investment incentives.

"SUBPART C. General provisions.

"Subpart A—Enterprise Zone Employment Credits

"Sec. 1395. Enterprise zone employment credit.

"SEC. 1395. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any employer for any taxable year is 40 percent of the qualified zone wages paid or incurred during such taxable year.

"(b) QUALIFIED ZONE WAGES.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee to the extent such wages do not exceed $20,000.

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual unless such individual either—

"(i) is employed by the employer at least 90 days, or

"(ii) has completed at least 120 hours of services performed for the employer, and

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B).

"(d) CREDIT REFUNDABLE FOR SMALL EMPLOYERS.—

"(1) IN GENERAL.—In the case of so much of the credit allowed by section 38 which is attributable to the enterprise zone employment credit of a small employer—

"(A) section 38(c) shall not apply, and

"(B) for purposes of this title, such credit shall be treated as if it were allowed under subpart C of this part (relating to refundable credits).

"(2) SMALL EMPLOYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'small employer' means, with respect to any taxable year, any employer which had gross receipts not greater than $2,000,000 during the preceding taxable year.

"(B) PHASEOUT.—In the case of an employer which had gross receipts in excess of $1,000,000, the amount of the credit to which paragraph (1) would otherwise apply shall be reduced by the amount which bears the same ratio to the amount of the credit as such excess bears to $1,000,000.

"(C) GROSS RECEIPTS; PREDECESSORS.—For purposes of this paragraph, rules similar to the rules of subparagraphs (B), (C), and (D) of section 448(c)(3) shall apply.

"(e) NOTICE OF AVAILABILITY OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.—No credit shall be allowed to any employer which fails to notify all of the employees of such employer eligible to receive advanced payments of the credit under section 32 (relating to the earned income credit) of the availability of such advanced payments.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—

"(A) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51, except that paragraph (4) of section 51(c) shall not apply.

"(B) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(i) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(I) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person which is not a related person.

"(II) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(ii) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(2) CONTROLLED GROUPS.—

"(A) TREATED AS SINGLE EMPLOYER.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart.

"(B) PROPORTIONATE SHARE.—The credit (if any) determined under this section with respect to each employer described in subparagraph (A) shall be such employer's proportionate share of the wages giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Investment Incentives

"Sec. 1397. Additional expensing allowance.

"Sec. 1397A. Accelerated depreciation.

"Sec. 1397B. Deduction for purchase of enterprise zone stock.

"Sec. 1397C. Low-income housing credit.

"Sec. 1397D. Ordinary loss treatment for certain property.

"SEC. 1397. ADDITIONAL EXPENSING ALLOWANCE.

"(a) IN GENERAL.—In the case of a qualified enterprise zone business, for purposes of section 179—

"(1) qualified zone property shall be treated as section 179 property,

"(2) the limitation under subsection (b) shall apply in lieu of the limitation under section 179(b)(1), and

"(3) in the case of section 179 property other than qualified zone property, the limitation under section 179(b)(1) (as reduced under section 179(b)(2)) applicable to such property shall be reduced (but not below zero) by the cost of qualified zone property placed in service during the taxable year.

"(b) LIMITATION.—

"(1) IN GENERAL.—The aggregate cost of qualified zone property which may be taken into account under section 179(a) for any taxable year shall not exceed $75,000.

"(2) REDUCTION IN LIMITATION.—The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by 50 percent of the amount by which the cost of qualified zone property placed in service during such taxable year exceeds $300,000.

"(c) QUALIFIED ENTERPRISE ZONE BUSINESS.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'qualified enterprise zone business' means—

"(A) any qualified business entity, and

"(B) any qualified proprietorship.

"(2) QUALIFIED BUSINESS ENTITY.—For purposes of this subsection, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(A)(i) every trade or business of such entity is the active conduct of a qualified business within a tax enterprise zone, and

"(ii) at least 80 percent of the total gross income of such entity is derived from the active conduct of any such business,

"(B) substantially all of the use of the tangible property of such entity (whether owned or leased) is within a tax enterprise zone,

"(C) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(D) substantially all of the services performed for such entity by its employees are performed in a tax enterprise zone,

"(E) at least 1/3 of its employees are residents of a tax enterprise zone, and

"(F) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to—

"(i) collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of any such business, or

"(ii) nonqualified financial property.

"(3) QUALIFIED PROPRIETORSHIP.—For purposes of this subsection, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(A) at least 80 percent of the total gross income of such business is derived from the active conduct of such business in a tax enterprise zone,

"(B) substantially all of the use of the tangible property of such business (whether owned or leased) is within a tax enterprise zone,

"(C) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(D) substantially all of the services performed for such business by employees of such business are performed in a tax enterprise zone,

"(E) at least 1/3 of such employees are residents of a tax enterprise zone,

"(F) less than 5 percent of the average of the aggregate unadjusted bases of the property of such business is attributable to—

"(i) collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, or

"(ii) nonqualified financial property.

For purposes of this paragraph, the term 'employee' includes a self-employed individual (within the meaning of section 401(c)(1)).

"(4) QUALIFIED BUSINESS.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified business' means any trade or business.

"(B) RENTAL OF REAL PROPERTY.—The rental of any building or structure located in a tax enterprise zone shall be treated as a qualified business if and only if at least 50 percent of the gross rental income from the building or structure is from enterprise zone businesses (without regard to this subparagraph).

"(C) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

"(D) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(E) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

"(5) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this subsection, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(A) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(B) accounts or notes receivable described in section 1221(4).

"(6) TERMINATION OF ENTERPRISE ZONE BUSINESS.—An activity shall cease to be a qualified enterprise zone business as of the date on which the designation of the enterprise zone in which the activity is conducted terminates or is revoked pursuant to section 1391(d). The preceding sentence shall not apply—

"(A) during the 1st taxable year of an activity,

"(B) to property placed in service before the date of the termination or revocation of such designation, or

"(C) to property placed in service on or after such date pursuant to a binding, written contract in effect before such date and at all times thereafter.

"(d) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) if such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the tax enterprise zone took effect,

"(B) the original use of which in a tax enterprise zone commences with the taxpayer, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) SPECIAL RULE FOR SUBSTANTIAL RENOVATIONS.—In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the tax enterprise zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(3) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(e) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (b)(2), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(f) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property of any business which ceases to be a qualified enterprise zone business.

"SEC. 1397A. ACCELERATED DEPRECIATION.

"(a) IN GENERAL.—For purposes of section 168, with respect to qualified zone property (as defined in section 1397(d)) of a qualified enterprise zone business (as defined in section 1397(c)), the applicable recovery period shall be determined in accordance with the table contained in subsection (b) in lieu of the table contained in section 168(c)(1).

"(b) APPLICABLE RECOVERY PERIOD FOR QUALIFIED ZONE PROPERTY.—For purposes of subsection (a)—

"In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	20 years.

"SEC. 1397B. DEDUCTION FOR PURCHASE OF ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to 50 percent of the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATION.—

"(1) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer for the taxable year shall not exceed the lesser of—

"(A) $25,000, or

"(B) the excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(2) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under paragraph (1)(A)—

"(A) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(B) the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(3) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's

family (as defined in section 267(c)(4)) shall be treated as one person for purposes of paragraph (1), and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ZONE PROPERTY.—The term 'enterprise zone stock' shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified zone property (as defined in section 1397(d)).

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

"(1) such corporation is a qualified enterprise zone business (as defined in section 1397(c)) or, in the case of a new corporation, such corporation is being organized for purposes of being such a qualified enterprise zone business,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $3,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of the disposition by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section.

"SEC. 1397C. LOW-INCOME HOUSING CREDIT.

"For purposes of section 42(d)(5)(C), any building located in a tax enterprise zone shall be treated in the same manner as if located in a qualified census tract.

"SEC. 1397D. ORDINARY LOSS TREATMENT FOR CERTAIN PROPERTY.

"(a) IN GENERAL.—Loss on any qualified zone asset held for more than 2 years (5 years in the case of real property) shall be treated as an ordinary loss.

"(b) QUALIFIED ZONE ASSET.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) in the case of an individual, any qualified zone stock or any qualified zone partnership interest, and

"(B) any qualified zone business property.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business, or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business, and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397B ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397B(e)(1).

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business, or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business, and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(4) QUALIFIED ZONE BUSINESS PROPERTY.—The term 'qualified zone business property' means—

"(A) any qualified zone property (as defined in section 1397(d)), and

"(B) any land which is an integral part of an enterprise zone business.

"(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' means a qualified business entity (as defined in section 1397(c)(2)).

"(6) REAL PROPERTY.—The term 'real property' means any property which is section 1250 property (as defined in section 1250(c)).

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as a tax enterprise zone shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF PASS-THRU ENTITIES.—

"(A) SALES AND EXCHANGES.—Loss on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as ordinary loss described in subsection (a) to the extent such loss is attributable to amounts which would be loss on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of

subparagraph (B)(iii) shall apply for purposes of the preceding sentence.

"(B) DISTRIBUTIONS.—

"(i) IN GENERAL.—Any loss described in clause (ii) shall be treated as ordinary loss described in subsection (a).

"(ii) REQUIREMENTS.—A loss is described in this clause if—

"(I) such loss is attributable to loss on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(II) such amount is included in computing the taxable income of the taxpayer by reason of the holding of an interest in such entity.

"(C) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any partnership,

"(ii) any S corporation,

"(iii) any regulated investment company, and

"(iv) any common trust fund.

"(2) CERTAIN TAX-FREE AND OTHER TRANSFERS.—

"(A) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this paragraph applies, the transferee shall be treated as—

"(i) having acquired such asset in the same manner as the transferor, and

"(ii) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this paragraph) by the transferor.

"(B) TRANSFERS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any transfer—

"(i) by gift,

"(ii) at death, or

"(iii) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of paragraph (2)(B) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1), (2), and (3) of section 1244(d) shall apply.

"(4) COORDINATION WITH SECTION 1231.—Losses treated as ordinary losses by reason of this subsection shall not be taken into account in applying section 1231.

"Subpart C—General Provisions

"Sec. 1397E. Regulations.

"SEC. 1397E. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"SUBCHAPTER U. Designation and treatment of tax enterprise zones."

SEC. 1103. TAX ENTERPRISE ZONE BONDS.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended by striking "or" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(12) qualified enterprise zone facilities."

(b) DEFINITION.—Section 142 is amended by adding at the end thereof the following new subsection:

"(j) QUALIFIED ENTERPRISE ZONE FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'qualified enterprise zone facilities' means any qualified zone property (as defined in section 1397(d) (other than paragraph (3) thereof)) of a qualified enterprise zone business (as defined in section 1397(c)), and any land located within a tax enterprise zone which is an integral part of such business.

"(2) TAX ENTERPRISE ZONE.—For purposes of this subsection (and for applying sections 1397(c) and 1397(d) under paragraph (1)), the term 'tax enterprise zone' has the meaning given such term by section 1391(a), except that such term also includes any other nominated area for the 5-year period beginning with the date such area determined by the appropriate Secretary under section 1392(d)(1) to be eligible for designation as a tax enterprise zone.

"(3) USE OF PROCEEDS.—

"(A) PERIOD TO SPEND PROCEEDS.—

"(i) GENERAL RULE.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless the proceeds are spent for the governmental purpose of the issue within an 18-month period of the date of the issuance of the bond.

"(ii) EXCEPTION.—Clause (i) shall not apply to any bond if—

"(I) the issuer pays a penalty equal to 3 percent of the amount of available proceeds of the issue which is not spent for the governmental purpose of the issue as of the close of the 18-month period described in clause (i), and

"(II) the issuer redeems such bond not later than 24 months after the date of the issuance of the bond.

"(B) LIMITATION ON AMOUNT OF BONDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond if, at any time, the face amount of such bond plus the aggregate face amount of any outstanding bonds issued as part of an issue described in subsection (a)(12) used or to be used with respect to any qualified enterprise zone business which is a principal user of a facility financed by the proceeds of the issue exceeds $1,000,000 (not including as outstanding any bond which is to be redeemed). 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 1 person.

"(C) HOUSING LOANS EXCLUDED.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond if any portion of the proceeds are used directly or indirectly to provide residential real property."

(b) CERTAIN RULES NOT TO APPLY.—Subsection (h) of section 147 (relating to other requirements applicable to certain private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(3) BONDS FOR QUALIFIED ENTERPRISE ZONE FACILITIES.—Subsections (c)(2) and (d) shall not apply to any bonds the proceeds of which are used to finance qualified enterprise zone facilities."

(c) VOLUME CAP ONLY CHARGED WITH 50 PERCENT OF TAX ENTERPRISE ZONE BONDS.—Subsection (g) of section 146 (relating to volume cap) 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 thereof the following new paragraph:

"(5) 50 percent of any bond issued as part of an issue described in subsection 142(a)(12)."

(d) PENALTIES FOR LOANS MADE TO BUSINESSES THAT CEASE TO BE ENTERPRISE ZONE BUSINESSES, ETC.—Subsection (b) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) TAX ENTERPRISE ZONE BONDS.—In the case of any qualified enterprise zone facility with respect to which financing was provided by an issue described in section 142(a)(12)—

"(A) NO DEDUCTION ALLOWED.—No deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) the trade or business to which the financing was provided ceases to be a qualified enterprise zone business (as defined in section 1397(c)), or

"(ii) substantially all of the use of such facility (determined in accordance with subchapter U) with respect to which the financing was provided ceases to be in a tax enterprise zone. For purposes of this subparagraph (and for applying section 1397(c) under this subparagraph), the term 'tax enterprise zone' has the meaning given such term by section 142(j)(2).

"(B) PENALTY IMPOSED ON BUSINESS.—If at any time during the 10-year period beginning on the date such financing was provided—

"(i) such facility ceases to be in use in a qualified enterprise zone business (as so defined), or

"(ii) substantially all of the use of such facility ceases to be in a tax enterprise zone (as so defined),

there is hereby imposed on such business to which such financing was provided a penalty equal to 1.25 percent of so much of the face amount of all financing provided (whether or not from the same issue and whether or not such issue is outstanding) before such cessation to such business using such facility.

"(C) EXCEPTION IF ZONE CEASES.—Subparagraphs (A) and (B) shall not apply solely by reason of the termination or revocation of a tax enterprise zone designation.

"(D) EXCEPTION FOR BANKRUPTCY.—Subparagraphs (A) and (B) shall not apply to any cessation resulting from bankruptcy."

(e) BANK INTEREST DEDUCTION.—

(1) IN GENERAL.—Clause (ii) of section 265(b)(3)(B) (relating to exception for certain tax-exempt obligations) is amended—

(A) by striking "or" at the end of subclause (I),

(B) by redesignating subclause (II) as subclause (III), and

(C) by inserting after subclause (I) the following new subclause:

"(II) any bond elected not to be treated as private activity under clause (iii), or".

(2) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—Section 265(b)(3)(B) is amended by adding at the end thereof the following new clause:

"(iii) ELECTION NOT TO TREAT QUALIFIED ENTERPRISE ZONE FACILITY BONDS AS PRIVATE ACTIVITY BONDS.—A bond issued as part of an issue described in section 142(a)(12)) shall not be treated as a private activity bond if, on or before the date of the issue of such bond, the issuer irrevocably elects not to treat such bond as a private activity bond for purposes of clause (i)(II)."

(3) CONFORMING AMENDMENT.—Subclause (I) of section 265(b)(3)(B)(i) (defining qualified tax-exempt obligation) is amended by inserting "or is an obligation issued as part of an issue described in section 142(a)(12)" after "issues".

SEC. 1104. EXPANSION OF TARGETED JOBS CREDIT.

(a) ALLOWANCE OF CREDIT FOR HIRING TAX ENTERPRISE ZONE RESIDENT.—Paragraph (1) of section 51(d) (defining members of targeted groups), as amended by section 2148 of this Act, is amended by striking "or" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ", or", and by adding at the end the following new subparagraph:

"(L) a tax enterprise zone resident."

(b) TAX ENTERPRISE ZONE RESIDENT.—Section 51(d), as so amended, is amended by adding at the end thereof the following new paragraph:

"(18) TAX ENTERPRISE ZONE RESIDENT.—

"(A) IN GENERAL.—The term 'tax enterprise zone employee' means an individual whose principal place of abode while performing services for the employer is within a tax enterprise zone (as defined in section 1391(a)).

"(B) COORDINATION WITH ZONE EMPLOYMENT CREDIT.—For purposes of this paragraph, the term 'qualified wages' shall not include wages taken into account in determining the credit under section 1395."

SEC. 1105. OTHER PROVISIONS.

(a) ALTERNATIVE MINIMUM TAX.—

(1) EMPLOYMENT CREDIT MAY OFFSET REGULAR AND MINIMUM TAX.—

(A) REGULAR TAX.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES FOR EMPLOYMENT CREDIT.—

"(A) IN GENERAL.—This section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the employment credit, and

"(ii) then with respect to the employment credit.

"(B) RULES FOR APPLICATION OF EMPLOYMENT CREDIT.—

"(i) IN GENERAL.—In the case of the employment credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the employment credit).

"(C) EMPLOYMENT CREDIT.—For purposes of this paragraph, the term 'employment credit' means the credit allowable under subsection (a) by reason of section 1394, other than that portion of such credit which is treated under section 1394(d) as allowable under subpart C."

(B) MINIMUM TAX.—Paragraph (2) of section 55(c) is amended to read as follows:

"(2) CROSS REFERENCES.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provisions allowing employment credit against the tax imposed by this section, see section 38(c)(3)."

(2) EXPENSING.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), is amended—

(A) in clause (i), by striking "or (ii)" and inserting "(ii), or (iii)", and

(B) by adding at the end thereof the following new clause:

"(iv) EXPENSING FOR QUALIFIED TAX ENTERPRISE ZONE PROPERTY.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(b) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the enterprise zone employment credit determined under section 1394(a)."

(2) Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF SECTION 1394 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the enterprise zone employment credit determined under section 1394 may be carried to a taxable year ending before the date of the enactment of section 1394."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) 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) the enterprise zone employment credit determined under section 1394(a)."

(d) ACQUISITIONS.—Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(e) NONITEMIZERS ALLOWED DEDUCTION FOR ENTERPRISE ZONE STOCK.—Subsection (a) of section 62 is amended by adding at the end thereof the following new paragraph:

"(14) ENTERPRISE ZONE STOCK.—The deduction allowed by section 1397B."

(f) COORDINATION WITH REFUND PROVISION.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 1395(d) of the Internal Revenue Code of 1986 (as added by this Act) shall be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

SEC. 1106. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR RULES.—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue rules—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this subtitle),

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by subtitle B, and

(4) providing that State and local governments shall have at least 5 months after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

Subtitle B—Study

SEC. 1111. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(9), as added by subtitle A), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to conduct a study of the effectiveness of the incentives provided by subtitle A in achieving the purposes of such subtitle in tax enterprise zones.

(b) CONDUCT OF STUDY.—If the Academy contracts for the conduct of the study described in subsection (a), the Academy shall develop a study methodology and shall oversee and manage the conduct of such study.

(c) REPORTS.—The Academy shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1997, an interim report setting forth the findings as a result of such study, and

(2) not later than July 1, 2000, a final report setting forth the findings as a result of such study.

(d) FUNDING.—There are authorized to be appropriated to carry out the study and reports described in this section, $500,000 for fiscal year 1993, and such sums as are necessary for each succeeding fiscal year.

TITLE II—GROWTH INCENTIVES

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

Subpart A—Restoration of IRA Deduction

SEC. 2001. RESTORATION OF IRA DEDUCTION.

(a) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1993."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 2001, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January 1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section, the term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3)."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 2021(c), is amended by adding at the end thereof the following new paragraph:

"(8) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1993.

(2) QUALIFIED TRANSFERS IN 1993.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1993.

PART II—PENALTY-FREE DISTRIBUTIONS

SEC. 2021. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE LONG-TERM UNEMPLOYED.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii)—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)); or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (7)) of the taxpayer for the taxable year."

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C) or (D)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end thereof the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual or the spouse, child, or grandchild of such individual.

"(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (a)(6), (h), or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section.

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) the taxpayer's child (as defined in section 151(c)(3)) or grandchild,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135."

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan (other than a plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or distributions for qualified higher education expenses (as defined in section 72(t)(7)) are made, and".

(2) Section 403(b)(11) 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) for qualified first-time homebuyer distributions (as defined in section 72(t)(6)) or for the payment of qualified higher education expenses (as defined in section 72(t)(7))."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1992.

SEC. 2022. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by section 2011(b), is amended by adding at the end thereof the following new paragraph:

"(9) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL RULE FOR ROLLOVERS.—

"(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c) applied.

"(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been held by a plan during any period such contributions were held (or are treated as held under this clause) by any individual retirement plan from which transferred.

"(D) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (8)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1993.

Subtitle B—Economic Development Provisions

PART I—INVESTMENT IN REAL ESTATE

Subpart A—Modification of Passive Loss Rules

SEC. 2101. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) LOSSES FROM CERTAIN RENTAL REAL ESTATE ACTIVITIES TREATED AS NOT PASSIVE.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, subsection (a) shall not apply to so much of the passive activity loss for such taxable year as does not exceed the lesser of—

"(A) the net loss for such taxable year from rental real estate activities in which the taxpayer materially participates, or

"(B) an amount equal to the lesser of—

"(i) the net income of the taxpayer for the taxable year from real property trade or business activities which are not passive activities, or

"(ii) the taxable income of the taxpayer for the taxable year determined without regard to this subsection.

A similar rule shall apply to any passive activity credit.

"(2) REQUIREMENTS.—The taxpayer meets the requirements of this paragraph for any taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(3) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(4) SPECIAL RULES.—

"(A) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of paragraph (2), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation.

"(5) COORDINATION WITH SUBSECTION (i).—

"(A) IN GENERAL.—This subsection shall be applied after the application of subsection (i).

"(B) AMOUNTS ALLOWED UNDER SUBSECTION (i).—For purposes of this subsection—

"(i) the passive activity loss and passive activity credit, and

"(ii) the net loss referred to in paragraph (1)(A),

shall not include any amount allowed under subsection (i)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subpart B—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 2111. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution where—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 30 percent of the value of the property (determined as of such time).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after July 28, 1992.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after July 28, 1992.

SEC. 2112. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II). For purposes of subclause (II), interests owned by individual retirement plans (as defined in section 7701(a)(37)) shall not be taken into account.

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership years ending after July 28, 1992.

SEC. 2113. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2114. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were not) in excess of 20 percent of the net selling price of the property with respect to such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after July 28, 1992.

SEC. 2115. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after July 28, 1992.

SEC. 2116. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subpart C—First-Time Homebuyer Credit

SEC. 2121. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

Subpart D—Discharge of Indebtedness

SEC. 2131. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) 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 at the end the following new subparagraph:

"(D) in the case of an individual, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by an individual in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before July 30, 1992, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended by striking "Subsections (a), (b), and (g)" each place it appears in the heading thereof and in the text and headings of paragraphs (6) and (7)(A) and inserting "Subsections (a), (b), (c), and (g)".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1991, in taxable years ending after such date.

PART II—EXTENSION OF CERTAIN EXPIRING TAX PROVISIONS

SEC. 2141. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made this section shall apply to taxable years ending after June 30, 1992.

SEC. 2142. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 104(a) of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2143. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2144. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) FINANCING ALLOWED FOR CONTRACT OF DEED AGREEMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by inserting "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and any residence to be constructed thereon,".

(2) EXCEPTION TO NEW MORTGAGE REQUIREMENT.—Paragraph (1) of section 143(i) (relating to mortgages must be new mortgages) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN CONTRACT OF DEED AGREEMENTS.—

"(i) IN GENERAL.—In the case of land possessed under a contract of deed by a mortgagor with family income (as defined in subsection (f)(2)) of less than $15,000 in the year in which owner-financing is provided, the contract of deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) CONTRACT OF DEED DEFINED.—For purposes of this section, the term 'contract of deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

"(iii) ADJUSTMENT TO INCOME LEVEL.—In the case of any calendar year after 1992, the dollar amount contained in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(3) ACQUISITION COST INCLUDES COST OF LAND.—Clause (iii) of section 143(k)(3)(B) (relating to exceptions to acquisition cost) is amended by inserting "(other than land described in subsection (i)(1)(C)(i))" after "cost of land".

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) CONTRACT OF DEED AGREEMENTS.—The amendments made by subsection (c) shall apply to loans originated after the date of the enactment of this Act.

SEC. 2145. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is

amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after June 30, 1992.

SEC. 2146. RESEARCH CREDIT.

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

(1) by striking "June 30, 1992" each place it appears and inserting "December 31, 1993"; and

(2) by striking "July 1, 1992" each place it appears and inserting "January 1, 1994".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1992.

SEC. 2147. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—

(A) Paragraph (1) of section 42(o) (relating to termination of low-income housing credit) is amended—

(i) by inserting ", for any calendar year after 1993" after "paragraph (2)",

(ii) by striking "to any amount allocated after June 30, 1992" in subparagraph (A), and

(iii) by striking "June 30, 1992" in subparagraph (B) and inserting "1993".

(B) Paragraph (2) of section 42(o) is amended—

(i) by striking "July 1, 1992" each place it appears and inserting "1994",

(ii) by striking "June 30, 1992" in subparagraph (B) and inserting "December 31, 1993",

(iii) by striking "June 30, 1994" in subparagraph (B) and inserting "December 31, 1995", and

(iv) by striking "July 1, 1994" in subparagraph (C) and inserting "January 1, 1996".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42 (m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) such facilities are designed to serve qualifying tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) CARRYFORWARD RULES.—The amendments made by paragraph (1) shall apply to calendar years beginning after December 31, 1991.

(C) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and shall be subject to the taxpayer entering into a compliance monitoring agreement pursuant to section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986 with the housing credit agency for the jurisdiction within which such building is located. Once made, the election shall be irrevocable.

SEC. 2148. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) INCREASE IN AGE REQUIREMENTS OF ECONOMICALLY DISADVANTAGED YOUTH.—Subparagraph (B) of section 51(d)(3) (defining economically disadvantaged youth) is amended by striking "age 23" and inserting "age 25".

(c) ALLOWANCE OF CREDIT FOR HIRING LONG-TERM UNEMPLOYED.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) (defining members of targeted groups) is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by adding at the end the following new subparagraph:

"(K) a long-term unemployed individual."

(2) LONG-TERM UNEMPLOYED.—Section 51(d) is amended by adding at the end thereof the following new paragraph:

"(17) LONG-TERM UNEMPLOYED.—

"(A) IN GENERAL.—The term 'long-term unemployed individual' means an individual—

"(i) who has been receiving unemployment compensation at all times during the 6-month period ending with the last day of the month preceding the hiring date, or

"(ii) who—

"(I) was receiving unemployment compensation but exhausted all rights to such compensation, and

"(II) has remained unemployed during the period beginning on the date such rights were exhausted and ending on the day before the hiring date.

"(B) EFFECTIVE PERIOD.—Notwithstanding subsection (c)(4), in the case of a long-term unemployed individual, the term 'wages' shall include amounts paid or received for individuals who begin work for the employer during the 6-month period beginning on the date of the enactment of this paragraph, or during any subsequent 6-month period, if, for any month during the preceding 6-month period, the national average rate of total unemployment as determined by the Secretary of Labor exceeds 7 percent.

"(C) UNEMPLOYMENT COMPENSATION.—For purposes of this paragraph, the term 'unemployment compensation' has the meaning given such term by section 85(b).

"(D) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any long-term unemployed individual subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'."

(3) CERTAIN INDIVIDUALS ELIGIBLE.—Section 51(i) (relating to certain individuals ineligible) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR LONG-TERM UNEMPLOYED.—No wages shall be taken into account under subsection (a) with respect to any long-term unemployed individual (as defined in subsection (d)(17)) unless—

"(A) notwithstanding paragraph (3), the individual is employed by the employer at least 120 days, and

"(B) the employer certifies on the return of tax for the taxable year for which credit is claimed that the individual was hired after the employer took reasonable actions to specifically recruit long-term unemployed individuals."

(d) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) 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—

"(A) such individual is employed by the employer at least 90 days, or

"(B) in the case of an individual described in subsection (d)(12) either—

"(i) is employed by the employer at least 14 days, or

"(ii) has completed at least 20 hours of services performed for the employer."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1992.

(2) LONG-TERM UNEMPLOYED AND MINIMUM PERIOD.—The amendments made by subsections (c) and (d) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 2149. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2150. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2151. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

PART III—OTHER INCENTIVES

SEC. 2161. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after August 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after August 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before August 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after August 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before January 1, 1994.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) REPAIRED OR RECONSTRUCTED PROPERTY.—Except as otherwise provided in regulations, the term 'qualified equipment' shall not include any repaired or reconstructed property.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after August 1, 1992, and before January 1, 1993.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after August 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after August 1, 1992, in taxable years ending on or after such date.

SEC. 2162. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service in taxable years beginning after the date of the enactment of the Revenue Act of 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

Subtitle C—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used In Noncommercial Boats

SEC. 2201. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, 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 such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) TECHNICAL AMENDMENTS.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect before the date described in subsection (d)(1), is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on January 1, 1992.

(2) INDEXING FOR INFLATION.—Subsection (e) of section 4001 of the Internal Revenue Code of 1986 (relating to inflation adjustment), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) purchased on or after July 1, 1992.

(3) DEMONSTRATOR VEHICLES.—Subsection (b)(3) of section 4002 of the Internal Revenue Code of 1986 (relating to exemption for demonstration use), as added by this section, shall apply with respect to passenger vehicles (as defined in such section 4001) the use of which begins on or after July 1, 1992.

(4) CERTAIN EQUIPMENT FOR USE BY DISABLED INDIVIDUALS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 2202. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(i) a vessel employed in the fisheries or in the whaling business, and

"(ii) in the case of diesel fuel, a boat employed in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation."

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following flush sentence:

"For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 1992, and before October 1, 1997.

TITLE III—OFFSETTING REVENUE INCREASES

Subtitle A—General Provisions

SEC. 3001. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale,

"(C) any security acquired—

"(i) by a floor specialist (as defined in section 1236(d)(2)) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

"(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

"(I) the security is included on the National Association of Security Dealers Automated Quotation System,

"(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

"(III) as of the last day of the taxable year, the taxpayer has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date), and

"(D) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (D) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), (C), or (D) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(D) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in its capacity as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by, or provision of, this section. All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 3002. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "120 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 6654(i)(1) is amended by striking "and without regard to subparagraph (C) of subsection (d)(1)".

(2) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(3) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

SEC. 3003. CORPORATE ESTIMATED TAX PROVISIONS.

(a) INCREASE IN ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "100 PERCENT", and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100."

(B) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(f)(3)(A) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3004. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after October 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after October 1, 1992, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after October 1, 1992, regardless of the taxable period to which such refund relates.

SEC. 3005. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any

assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

(3) UNDERPAYMENT OF ESTIMATED TAX.—In the case of any required installment the due date for which occurs before the date of the enactment of this Act, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment to the extent such underpayment was created or increased by the treatment of FSLIC assistance credited before such date in a manner other than the manner described in subsection (a). All reductions in installments by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st required installment occurring on or after the date of the enactment of this Act by the amount of such reductions.

SEC. 3006. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3)).."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

SEC. 3007. REPEAL OF SPECIAL RULES FOR RENTAL USE OF DWELLING FOR LESS THAN 15 DAYS PER YEAR.

(a) IN GENERAL.—Subsection (g) of section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing such de minimis rules as the Secretary may deem appropriate."

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

SEC. 3008. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property ..... 40 years.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after July 28, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before July 28, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before July 28, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3009. INFORMATION REPORTING OF REAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes or real property taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local real property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name, address, and TIN of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(3) REGULATORY AUTHORITY.—Section 6050E is amended by adding at the end thereof the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section in cases where real property taxes are paid by a person on behalf of another person."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6050E and inserting the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or received in calendar years after 1993.

SEC. 3010. MODIFICATIONS TO DEDUCTIONS FOR CERTAIN MOVING EXPENSES.

(a) IN GENERAL.—

(1) RESIDENCE SALE, PURCHASE, OR LEASE EXPENSES.—Section 217(b)(1) (defining moving expenses) is amended—

(A) by striking subparagraph (E),

(B) by striking ", or" at the end of subparagraph (D) and inserting a period, and

(C) by inserting "or" at the end of subparagraph (C).

(2) MEAL EXPENSES.—Section 217(b)(1) is amended—

(A) by striking "meals and" in subparagraphs (B) and (C), and

(B) by striking "of meals and lodging" in subparagraph (D) and inserting "of lodging (but not meals)".

(b) CONFORMING AMENDMENTS.—

(1) Section 217(b) (defining moving expenses) is amended—

(A) by striking paragraph (2),

(B) by striking the second sentence in paragraph (3)(A), and

(C) by striking ", and by substituting '$1,500' for '$3,000'" in paragraph (3)(B).

(2) Section 217 is amended by striking subsection (e).

(3) Section 217(h) (relating to special rules for foreign moves) is amended—

(A) by striking "and by substituting '$6,000' for '$3,000'" in paragraph (1)(B), and

(B) by striking ", and by substituting '$3,000' for '$6,000'" in paragraph (1)(C).

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1992.

SEC. 3011. INCREASE IN EXCISE TAX ON WAGERING.

(a) IN GENERAL.—Subsection (a) of section 4401 (relating to tax on wagers) is amended by striking "0.25 percent" in paragraph (1) and inserting "1 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wagers placed after the date of enactment of this Act.

SEC. 3012. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Except as provided in regulations, paragraph (1) shall not apply to any holder of an interest if such holder on his return discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1).

"(3) REGULATIONS.—The Secretary is authorized to require such information as the Secretary determines to be necessary to carry out the provisions of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 3013. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTION TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) BASIS RULES.—

"(1) PARTNER'S INTEREST.—The adjusted basis of a partner's interest in a partnership shall be increased by the amount of any gain recognized by such partner under subsection (a). Except for purposes of determining the amount recognized under subsection (a), such increase shall be treated as occurring immediately before the distribution.

"(2) PARTNERSHIP'S BASIS IN CONTRIBUTED PROPERTY.—Appropriate adjustments shall be made to the adjusted basis of the partnership in the contributed property referred to in subsection (b) to reflect gain recognized under subsection (a).

"(d) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after June 25, 1992.

SEC. 3014. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1992.

SEC. 3015. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ADDITIONAL BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical for any calendar year (determined without regard to this subparagraph) shall be increased by the amount determined under the following table for such calendar year:

"For calendar year:	The base tax amount is increased by:
1992	$0.15
1993	0.25
1994	0.35
1995 and each calendar year thereafter	0.45."

(b) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

"In the case of:	The applicable percentage is: For sales or use during 1992	For sales or use during 1993
Halon-1211	4.58	2.78
Halon-1301	1.38	0.83
Halon-2404	2.29	1.39".

(c) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.76", and

(B) by striking "10" and inserting "8.33".

(d) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

(1) IN GENERAL.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL DEVICES.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use after September 30, 1992, and before January 1, 1994, of any substance to sterilize medical devices, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed:

"In the case of sales or use during:	The applicable percentage is:
1992	91.76
1993	55.67.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance described in clause (i)—

"(I) for use by the purchaser to sterilize medical devices, 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 after September 30, 1992, and before January 1, 1994, by any person to sterilize medical devices, 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 manufacture, 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."

(e) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "January 1 of 1991, 1992, 1993, and 1994" and inserting "January 1 of 1991 and 1992, October 1, 1992, and January 1 of 1993 and each calendar year thereafter".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or October 1" after "January 1", and

(ii) by inserting "or March 31 of the succeeding calendar year, respectively," after "such year".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after October 1, 1992.

Subtitle B—Extension of Existing Provisions

SEC. 3101. EXTENSION OF TOP ESTATE AND GIFT TAX RATES.

(a) GENERAL RULE.—

(1) Subparagraph (A) of section 2001(c)(2) (relating to rate schedule) is amended by striking "1993" and inserting "1998".

(2) Subparagraph (D) of section 2001(c)(2) is amended by striking "1993" each place it appears (including in the subparagraph heading) and inserting "1998".

(3) Paragraph (3) of section 2001(c) is amended by striking "1992" and inserting "1997".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply in the case of decedents dying, and gifts made, after December 31, 1992.

SEC. 3102. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION FOR HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3103. EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Section 68 (relating to overall limitations on itemized deductions) is amended by striking subsection (f).

Subtitle C—Alternative Taxable Years

SEC. 3201. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) TAXABLE YEAR MUST BE SAME AS REPORTING PERIOD.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) PERIOD OF ELECTION.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) CHANGE NOT TREATED AS TERMINATION.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) EXCEPTION FOR TRUSTS.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN STRUCTURES THAT INCLUDE TRUSTS.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) REGULATIONS.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 3202. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) ADDITIONAL REQUIRED PAYMENT.—

(1) IN GENERAL.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.—

"(A) IN GENERAL.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) NEW APPLICABLE ELECTION YEAR.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) REQUIRED PAYMENT.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) DUE DATE.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) DUE DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) SPECIAL RULE WHERE NEW APPLICABLE ELECTION YEAR ADOPTED.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) PENALTIES.—

(A) IN GENERAL.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) FAILURE TO PAY ADDITIONAL AMOUNT.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) CONFORMING AMENDMENT.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) REFUNDS.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) REFUND.—Paragraph (3) of section 7519(c) (relating to date on which refund is payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) DEFERRAL RATIO.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) NET INCOME.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) DEFERRAL PERIOD.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) BASE YEAR.—

(A) IN GENERAL.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) CONFORMING AMENDMENT.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 3203. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) DISALLOWANCE OF NOL CARRYBACKS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 3204. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1992.

Subtitle D—Withholding Provisions

SEC. 3301. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402(g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less then 28 percent. The preceding sentence shall apply to payments made after December 31, 1992.

SEC. 3302. INCREASED WITHHOLDING ON GAMBLING WINNINGS.

(a) IN GENERAL.—Section 3402(q)(1) (relating to extension of withholding to certain gambling winnings) is amended by striking "20 percent" and inserting "28 percent".

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE IN CASE OF DIVORCE OR FROZEN DEPOSITS.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraphs:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale.

"(6) The running of any period of time specified in subsection (a) or this subsection (other than the period referred to in paragraph (4)) shall be suspended during any time the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has frozen deposits (as defined in section 402(a)(7)(B)) during the 2-year period beginning on the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

(b) EFFECTIVE DATES.—

(1) DIVORCES.—Section 1034(c)(5) (as added by subsection (a) of this section) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

(2) FROZEN DEPOSITS.—Section 1034(c)(6) (as added by subsection (a) of this section) shall apply to old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) sold or exchanged—

(A) after December 31, 1990, or

(B) on or before such date, if the rollover period under such section (determined without regard to the amendments made by this section) expires on or after such date.

SEC. 4102. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) 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,".

(b) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) 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".

(c) 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)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4103. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200 ($400 in the case of a joint return), and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4104. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4105. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting

before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1991.

SEC. 4106. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and to otherwise simplify the individual income tax returns, including—

(1) (if appropriate) allowing taxpayers who itemize deductions to file their return on Form 1040A, and

(2) removing or raising the taxable income limitations on taxpayers who may file Form 1040A.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4107. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4108. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 4109. SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(b) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(c) REPEAL OF INTERACTION WITH DEPENDENT CARE CREDIT.—Subparagraph (D) of section 32(b)(1) (relating to supplemental young child credit) is amended by striking the second sentence.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. 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(a) 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' means any distribution of the balance to the credit of an employee immediately before the distribution."

(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(e)(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", and

(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."

(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, 1992.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) (as in effect after the amendments made by the Unemployment Compensation Amendments of 1992 and before the amendments made by this Act) shall apply.

SEC. 4202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 4203. 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	*300*
More than 55 but not more than 60	*260*
More than 60 but not more than 65	*240*
More than 65 but not more than 70	*170*
More than 70	*120*

"(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 December 31, 1992.

SEC. 4204. 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,

"(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, 1993.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) MODIFICATION OF PARTICIPATION REQUIREMENTS.—Section 408(k)(2)(B) is amended to read as follows:

"(B) has at least 1 year of service (as determined under section 411(a)(5)) with the employer, and".

(c) REPEAL OF PARTICIPATION REQUIREMENT.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(d) ALTERNATIVE TEST.—Clause (iii) of section 408 (k)(6)(A) is amended by adding at the end thereof the following new flush sentence:

"The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 4212. PRIME ACCOUNTS.

(a) ESTABLISHMENT OF PRIVATE RETIREMENT INCENTIVES MATCHED BY EMPLOYERS.—

(1) 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) PRIME ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'PRIME account' means an individual retirement plan—

"(A) with respect to which the requirements of paragraphs (3), (4), (5), and (6) 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 may elect to have the employer make payments—

"(I) as elective employer contributions to the PRIME 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 $3,000 for any year, and

"(iii) the employer—

"(I) is required to make a matching contribution to the PRIME 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 3 percent of compensation, and

"(II) may make no other matching contribution.

"(B) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term 'eligible employer' means an employer who normally employs fewer than 100 employees on any day during the year.

"(C) ARRANGEMENT MUST 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 amounts were accrued, for 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) SERVICE CREDIT.—A qualified plan maintained by an employer shall provide that, in computing the accrued benefit of any employee, no credit shall be given for service during a year for which such employee was eligible to participate in a qualified salary reduction arrangement of such employer.

"(iii) 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).

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a PRIME account if the employee's rights to any contribution to the PRIME account are nonforfeitable. For purposes of this paragraph, the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—The requirements of this paragraph are met with respect to any PRIME account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who are reasonably expected to work at least 1,200 hours during such year are eligible to make the election under paragraph (2)(A)(i). Notwithstanding the preceding sentence, an arrangement may provide that an employee is not eligible to make such election until the employee has completed a year in which the employee worked at least 1,200 hours.

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any PRIME account if, under the qualified salary reduction arrangement—

"(A) an employer must make the elective employer contributions under paragraph (2)(A)(i) and the employer matching contributions under paragraph (2)(A)(iii) 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,

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so elects, the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate for any year may elect, during the 60-day period before the beginning of such year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) SPOUSAL CONSENT.—The requirements of this paragraph are met if requirements similar to the requirements of section 401(a)(11) are met. For purposes of applying section 401(a)(11)(B)(iii), the arrangement shall be treated in the same manner as a defined contribution plan.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(B) YEAR.—The term 'year' means the calendar year."

(2) COMMON FUNDS.—Any common trust fund or common investment fund of PRIME account assets shall be treated as if it were a common trust fund or common investment fund of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1993.

(b) TAX TREATMENT OF PRIME ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR PRIME ACCOUNTS.—This section shall not apply with respect to any amount contributed to a PRIME 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 thereof the following new clause:

"(vi) any PRIME account (within the meaning of section 408(p)), or".

(2) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF PRIME ACCOUNTS.—The rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a PRIME account under section 408(p)."

(B) Section 408(d)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) PRIME ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a PRIME account (as defined in section 408(p)) unless it is paid into another PRIME account."

(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)".

(3) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR PRIME ACCOUNTS.—If an employer establishes a PRIME account (within the meaning of section 408(p)) on behalf of an employee, and such employee receives any amount from such account during the 3-calendar-year period beginning with the calendar year for which elective contributions under section 408(p)(2) were first made by such employer on behalf of such employee, paragraph (1) shall be applied to such amount by substituting '25 percent' for '10 percent'."

(B) FAILURES 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 PRIME 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 $100 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 $100 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 $100 for each day on which such failures continue.

"(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any failure due to reasonable cause and not to willful neglect."

(4) REPORTING REQUIREMENTS.—

(A)(i) Section 408(l) is amended by adding at the end thereof the following new paragraph:

"(2) PRIME 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 PRIME account established pursuant to a qualified salary reduction arrangement under subsection (p) shall prepare, and 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 generally available under the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals 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)."

(ii) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(B) Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a PRIME account under subsection (p), only one report under this subsection shall be required to be submitted 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 quarter, 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 quarter."

(5) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking the "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 PRIME 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 employer contribution under section 408(p)(2)(A)."

(C) Subsections (b) and (c) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D)(i) Section 415(a)(2) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by adding after subparagraph (C) the following new subparagraph:

"(D) a PRIME account described in section 408(p),"

(ii) Section 415(a)(2) is amended—

(I) by striking "or pension" and inserting "pension, or account", and

(II) by striking "or 408(k)" and inserting "408(k), or 408(p)".

(iii) The second last sentence of section 415(c)(2) is amended—

(I) by inserting a comma after "408(d)(3))", and

(II) by inserting ", and without regard to contributions to a PRIME account which are excludable from gross income under section 408(p)" after "408(k)(6)".

(iv) Section 415(e)(5) is amended by inserting "or PRIME account" after "simplified employee pension".

(v) Section 415(k)(1) is amended by striking "or" at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ", or", and by inserting after subparagraph (F) the following new subparagraph:

"(G) a PRIME account described in section 408(p)."

(E) 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 PRIME account (within the meaning of section 408(p))."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1993.

SEC. 4213. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—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 subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, 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. 4214. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 4221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(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) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee. The preceding sentence shall not apply for purposes of section 401 (k) or (m) and shall not apply with respect to employees of an employer described in section 457(e)(1)."

(c) TREATMENT OF FAMILY MEMBERS.—Paragraph (6) of section 414(q) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, 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) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993, except that an employer may elect not to have such amendments apply to years beginning in 1994.

SEC. 4222. ELECTION TO TREAT BASE PAY AS COMPENSATION.

(a) IN GENERAL.—Section 414(s) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION TO USE BASE PAY.—An employer may elect to determine an employee's compensation solely by reference to that portion of the employee's compensation attributable to such employee's base pay. Such election shall apply for purposes of all applicable provisions and to all employees and, once made, may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1993.

SEC. 4223. 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) 25 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 DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to years beginning after December 31, 1991.

(2) ELECTION.—A plan may elect to have the amendment made by this section apply as if such amendment was included in the amendment made by section 1112(b) of the Tax Reform Act of 1986. Such election shall be made at such time, and in such form, as the Secretary of the Treasury may prescribe.

SEC. 4224. 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) is amended by adding at the end thereof the following new paragraph:

"(11) 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 matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation 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 level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the 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) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(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) 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) 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)(11),

"(ii) meets the notice requirements of subsection (k)(11)(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 level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation 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.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(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 thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any 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 thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS 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 DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 4231. TREATMENT OF LEASED EMPLOYEES.

(a) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 4232. ELIMINATION OF HALF-YEAR REQUIREMENTS.

(a) IN GENERAL.—Each of the following provisions are amended by striking "age 59½" and inserting "age 59":

(1) Section 72(q)(2)(A).
(2) Section 72(q)(3)(B)(i).
(3) Section 72(q)(3)(B)(ii).
(4) Section 72(t)(2)(A)(i).
(5) Section 72(t)(4)(A)(ii)(I).
(6) Section 72(t)(4)(A)(ii)(II).
(7) Section 72(v)(2)(A).
(8) Section 401(k)(7)(C).
(9) Section 402(e)(4)(D)(i)(II).
(10) Section 403(b)(7)(A)(ii).
(11) Section 403(b)(11)(A).
(12) The heading for section 403(b)(11).
(13) Section 4978(d)(1)(B).

(b) OTHER PROVISIONS.—Each of the following provisions is amended by striking "70½" and inserting "70":

(1) Section 219(d)(1).
(2) The heading for section 219(d)(1).
(3) Section 401(a)(9)(B)(iv)(I).
(4) Section 401(a)(9)(C)(i)(I).
(5) Section 401(a)(9)(C)(ii)(I).
(6) Section 401(a)(9)(C)(iii).
(7) Section 408(b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1993.

SEC. 4233. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4234. 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, 1992.

SEC. 4235. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 4236. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) IN GENERAL.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) ALTERNATIVE FULL-FUNDING LIMITATION.—

"(A) GENERAL RULE.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) ALTERNATIVE FULL-FUNDING LIMITATION.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) REQUIREMENTS RELATING TO PLAN ELIGIBILITY.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) FAILURE TO CONTINUE TO MEET REQUIREMENTS.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) REQUIREMENTS RELATING TO ELECTION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to an election if—

"(I) FILING DATE.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar.

"(II) CONSISTENT ELECTION.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) TRANSITION PERIOD.—In the case of any election period beginning on and after July 1, 1992, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) FILING DATE.—Notice of election is filed with the Secretary by October 1, 1992.

"(II) INFORMATION.—The notice sets forth the name and tax identification number of the plan sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(iii) REVENUE OFFSET PROCEDURES.—The Secretary shall, by January 1, 1993, notify defined benefit plans that have not made an election under this paragraph for the transition period described in clause (ii) of the adjustment required by subparagraph (H). The revenue offset for the transition period shall apply to plan years beginning on or after July 1, 1992, and before January 1, 1994.

"(iv) EXCESS CONTRIBUTIONS MADE BY NONELECTING PLANS.—To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period described in clause (ii) which exceeds the limitation of paragraph (7), as adjusted by the Secretary for the transition period, the sponsor shall offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan shall return the excess contribution to the sponsor in that taxable year or the following taxable year. Notwithstanding any other provision of this title, no deduction shall be allowed for any contribution made in excess of the limitation of paragraph (7), as adjusted by the Secretary for the transition period, and no penalty shall apply with respect to contributions made in excess of such limitation to the extent such excess contributions are either used to offset subsequent contributions, or returned to the plan sponsor, as provided in this clause.

"(E) TERM OF ELECTION.—Any election made under this paragraph shall apply for the election period.

"(F) OTHER CONSEQUENCES OF ELECTION.—

"(i) NO FUNDING WAIVERS.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) FAILURE TO MAKE SUCCESSIVE ELECTIONS.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) DEFINITIONS.—For purposes of this paragraph—

"(i) ELECTION PERIOD.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) CONTROLLED GROUP.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) PROCEDURES IF ALTERNATIVE FUNDING LIMITATION REDUCES NET FEDERAL REVENUES.—

"(i) IN GENERAL.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) ADJUSTMENT OF FULL-FUNDING LIMITATION IF REVENUE SHORTFALL.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) REDUCTION IN LIMITATION BASED ON 150 PERCENT OF CURRENT LIABILITY.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than 140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 percent of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

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

SEC. 4237. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof 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) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1011(k)(9) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 4238. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) 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."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof 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 thereof the following new paragraph:

"(15) 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 the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), 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."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4239. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits, and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph—

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4240. REPORTS OF PENSION AND ANNUITY PAYMENTS.

(a) AMENDMENTS RELATED TO DEFINITION OF INFORMATION RETURN.—

(1) Subparagraph (A) of section 6724(d)(1) is amended—

(A) by redesignating clauses (iv) through (vii) as clauses (vi) through (ix),

(B) by inserting after clause (iii) the following new clause:

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), and

(D) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (1) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of clauses (i) and (v) of subparagraph (A), such term shall include only those statements filed with the Secretary with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(b) AMENDMENTS RELATED TO DEFINITION OF PAYEE STATEMENT.—

(1) Paragraph (2) of section 6724(d) is amended—

(A) by redesignating subparagraphs (H) through (S) as subparagraphs (J) through (U),

(B) by inserting after subparagraph (G) the following new subparagraph:

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H), and

(D) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (2) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraphs (A) and (I), such term shall only include statements with respect to information required to be supplied to both the Secretary and the recipient of the payment."

(c) AMENDMENTS RELATED TO REPORTS OF DESIGNATED DISTRIBUTION.—

(1) Subsection (i) of section 408 is amended by inserting "aggregating $10 or more" after distributions".

(2) Section 6047(d)(1) is amended by adding at the end thereof the following sentence: "However, no returns or reports shall be required with respect to payments of designated distributions aggregating less than $10 to any person in any year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following: "However, failures to file returns and statements also described in section 6724(d)(1) or 6724(d)(2) shall be subject to penalties under part II of chapter 68B of this subtitle, and not under this section."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements required to be filed after December 31, 1992.

SEC. 4241. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end thereof 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 amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4242. AFFILIATED EMPLOYERS.

(a) IN GENERAL.—For purposes of Treasury Regulations section 1.501(c)(9)-2(a)(1), employers shall be deemed to be affiliated if they satisfy the requirements of subsection (b).

(b) AFFILIATION.—The requirements of subsection (b) shall be satisfied with respect to employers if—

(1) the employers are in the same line of business,

(2) the employers act jointly to perform tasks that are integral to the activities of each of the employers,

(3) the employers act jointly to such an extent that the joint maintenance of a voluntary employees' beneficiary association is not a major part of the employers' joint activities, and

(4) a substantial number of the employers are exempt from tax under subtitle A of the Internal Revenue Code of 1986.

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

SEC. 4243. DISAGGREGATION OF UNION PLANS.

(a) IN GENERAL.—Paragraph (3) of section 410(b) (relating to exclusion of certain employees) is amended by adding at the end thereof the following new sentence: "At the election of an employer, subparagraph (A) (and the exclusion of employees described in subparagraph (A) for purposes of section 401(a)(4) and 414(r)) shall not apply to a unit of employees who benefit under the plan on the same terms."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 401(a) is amended by inserting "and except as provided in section 410(b)(3)," after "paragraph,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4244. 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 thereof 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 which are based in whole or in part on an employee's social security retirement age (as so defined) shall be treated as being available to employees on the same terms."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4245. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4246. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the President pro tempore of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

"(1)(A) Members of the Commission shall be appointed during the period beginning February 1, 1993, and ending March 1, 1993, for terms ending on September 1, 1994.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments

and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 44, United States Code."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans."

SEC. 4247. CHURCH PLANS.

(a) VESTING REQUIREMENTS.—

(1) IN GENERAL.—Section 411(e) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR CHURCH PLANS.—A plan described in paragraph (1)(B) shall be treated as meeting the requirements of this section for purposes of section 401(a) if the plan satisfies the requirements of subparagraph (A) and either of the requirements of subparagraph (B) or (C):

"(A) EMPLOYEE CONTRIBUTIONS ARE NONFORFEITABLE.—An employee's rights in the employee's accrued benefit derived from the employee's own contributions are nonforfeitable.

"(B) 10-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(C) 5- TO 15-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

"Years of Service	*Nonforfeitable percentage*
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100.

"(D) YEARS OF SERVICE.—For purposes of this paragraph, an employee's years of service shall be determined in accordance with any reasonable method selected by the plan."

(2) CONFORMING AMENDMENTS.—Section 411(e) is amended—

(A) by inserting "or (3)" after "(2)" in paragraph (1), and

(B) by inserting "(other than paragraph (1)(B))" after "paragraph (1)" in paragraph (2).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1993.

(b) RULES GENERALLY APPLICABLE TO CHURCH PLANS.—

(1) IN GENERAL.—Section 414(e) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES APPLICABLE TO CHURCH PLANS.—For purposes of sections 401 and 403, the following rules shall apply:

"(A) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—If one or more organizations maintaining a church plan fail to satisfy the requirements of section 401 (or in the case of a contract described in section 403), such plan shall not be treated as failing to satisfy the requirements of section 401 or 403, whichever is applicable, with respect to other organizations maintaining such plan.

"(B) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—No employee shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee with respect to a church plan if—

"(i) such employee during the year or the preceding year received compensation from the employer of less than $50,000, or

"(ii) such employee is an employee described in section 410(b)(3)(A).

The Secretary shall adjust the $50,000 amount under this paragraph at the same time and in the same manner as under section 415(d).

(2) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1991.

(c) PARTICIPATION BY MINISTERS.—

(1) ANNUITY CONTRACTS.—Section 403(b) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATION BY MINISTERS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or any duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is employed by an organization other than an organization described in section 501(c)(3).

"(B) TREATMENT OF EMPLOYEE.—For purposes of this subsection, an individual treated as an employee under subparagraph (A) shall be treated as an employee of an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(C) COMPENSATION AND YEARS OF SERVICE.—

"(i) COMPENSATION.—In determining the compensation of a minister to whom subparagraph (A) applies who is a self-employed minister, such minister's earned income (within the meaning of section 401(c)(2)) shall be substituted for compensation received from an employer under paragraph (3).

"(ii) YEARS OF SERVICE.—In determining the years of service of a minister to whom subparagraph (A) applies who is a self-employed minister, the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) shall be included for purposes of paragraph (4)."

(2) MINISTERS EXCLUDED FOR CERTAIN PURPOSES.—Section 414(e) is amended by adding at the end the following new paragraph:

"(6) EXCLUSION OF MINISTERS.—Notwithstanding any other provision of this title, if a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry participates in a church plan (within the meaning of section 414(e)), then such minister shall be excluded from consideration for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as such sections in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410, to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)) described in this part. For purposes of this part, the church plan in which such minister participates shall be treated as a plan or contract meeting the requirements of section 401(a), or 403(b) (including section 403(b)(9)) with respect to such minister's participation."

(3) DEDUCTIBILITY.—Section 404(a) is amended by adding at the end the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—If contributions are made by a minister described in section 403(b)(13)(A) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as made to a trust which is exempt from tax under section 501(a) which is a part of a plan which is described in section 401(a) and shall be deductible under this subsection to the extent such contributions do not exceed the exclusion allowance of such minister determined under section 403(b)(2).".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall be effective for years beginning before, on, or after December 31, 1991, except that the amendment made by paragraph (3) shall be effective for years beginning after December 31, 1991.

(d) DISTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 403(b)(11) is amended by inserting "or, in the case of a retirement income account described in paragraph (9), within the meaning of section 401(k)(2)" after "section 72(m)(7)".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1988.

(e) BEGINNING DATE FOR DISTRIBUTIONS.—

(1) IN GENERAL.—Clause (iv) of section 401(a)(9)(C) is amended by striking the last sentence and inserting the following new sentence: "For purposes of this clause, the term 'church plan' has the meaning given such term by section 414(e)."

(2) EFFECTIVE DATE.—In the case of years beginning before January 1, 1994, to which the amendments made by section 1121(b) of the Tax Reform Act of 1986 apply, the required beginning date under section 401(a)(9)(C) of the Internal Revenue Code of 1986 for any employee of a church plan (as defined in section 414(e) of such Code) shall not begin before April 1 of the calendar year following the calendar year in which the employee retires (or, if later, the date determined without regard to this paragraph).

(f) CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).—

(1) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).".

(2) APPLICATION OF SECTION 415(l).—Section 415(l)(1) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

"(A) contributions allocated to any individual medical account which is part of a pension or annuity plan; and

"(B) the actuarially determined amount of prefunding for the insurance value of benefits which are—

"(i) described in section 401(h);

"(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(iii) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after March 31, 1984.

(g) REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS—

(1) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

"(iii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as if included in the provision of the Tax Reform Act of 1986 to which such amendment relates.

(h) CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.—

(1) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, or a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) of such Code, shall not fail to be described in such sections merely because it provides additional benefit payments to participants (and their beneficiaries)—

(A) on an annual basis, to take into account favorable interest and mortality experience in a plan year, or

(B) in an amount not in excess of 5 percent per year.

(2) EFFECTIVE DATE.—This subsection shall be effective for years beginning before, on, or after December 31, 1991.

SEC. 4248. COORDINATION OF ELECTIVE DEFERRAL AND SECTION 457 LIMITS.

(a) IN GENERAL.—The first sentence of paragraph (2) of section 457(c) (relating to coordination with certain deferrals) is amended to read as follows: "The limitation under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the limitation applicable to the individual for the taxable year under section 402(g)(1), over

"(B) the sum of—

"(i) any amount excluded from gross income under section 403(b) for the taxable year, plus

"(ii) any amount excluded from gross income under section 402(a)(8) or section 402(h)(1)(B) for the taxable year, plus

"(iii) any amount with respect to which a deduction is allowable by reason of a contribution to an organization described in section 501(c)(18) for the taxable year."

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of paragraph (2) of section 457(c) is amended by striking "Subparagraph (B)" and inserting "Clauses (ii) and (iii) of subparagraph (B)".

(2) Paragraph (2) of section 457(c) is amended by adding at the end the following new sentence: "In determining under paragraph (1) the maximum amount which may be deferred under subsection (a) for any taxable year to which subsection (b)(3) applies, the plan ceiling for such taxable year shall be reduced in an amount equal to the amounts described in subparagraph (B)."

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

SEC. 4249. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1995, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.

"Sec. 772. Simplified flow-through.

"Sec. 773. Computations at partnership level.

"Sec. 774. Other modifications.

"Sec. 775. Large partnership defined.

"Sec. 776. Special rules for partnerships holding oil and gas properties.

"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of

any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution,

"(B) section 704(c) shall not apply to such property, and

"(C) section 737 shall not apply.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph. If the property distributed consists of an interest in an entity, this subclause shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for

the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year ending on or after December 31, 1993, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. 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.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas

property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment, or

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where

there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) TREATMENT WHERE PARTNERSHIP CEASES TO EXIST.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) DATE DECISION BECOMES FINAL.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) PARTNERSHIPS IN CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) TREATMENT AS INFORMATION RETURN.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN PARTNERSHIP RETURNS.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1993.

(b) SPECIAL RULE FOR SECTION 4304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 4304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

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

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

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

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) SUSPENSION OF STATUTE WHERE UNTIMELY PETITION FILED.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) SUSPENSION OF STATUTE DURING BANKRUPTCY PROCEEDING.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) SUSPENSION DURING PENDENCY OF BANKRUPTCY PROCEEDING.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) TAX MATTERS PARTNER IN BANKRUPTCY.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) IN GENERAL.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

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

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) IN GENERAL.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If" and inserting the following:

"(f) SPECIAL RULES.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) IN GENERAL.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) SPECIAL RULE IN CASE OF EXTENSION OF PERIOD OF LIMITATIONS UNDER SECTION 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) IN GENERAL.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that

the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 4317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 4317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

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

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

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

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

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

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY RULES.—

(1) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) PERSONAL HOLDING COMPANY RULES.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) TREATMENT OF CERTAIN SERVICE CONTRACTS UNDER SUBPART F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United

States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of

the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

"(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

"(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

"(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or

which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation, or

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(4) TREATMENT OF CERTAIN MATCHED REPURCHASE TRANSACTIONS.—

"(A) IN GENERAL.—In the case of any foreign corporation engaged in the active conduct of a trade or business as a dealer in securities—

"(i) an amount properly treated as interest income by reason of a qualified matched transaction shall be netted with the amount properly treated as interest expense by reason of such transaction, and any net income resulting from such netting shall be treated as an item of gross interest income, and

"(ii) the offsetting positions which are part of such transaction shall be netted and the net position shall be treated as a single asset.

"(B) QUALIFIED MATCHED TRANSACTION.—For purposes of subparagraph (A) the term 'qualified matched transaction' means a sale and repurchase agreement with respect to a security and an offsetting reverse agreement with respect to the same security, entered into by the foreign corporation in the active conduct of its trade or business of being a dealer in securities, and properly treated as offsetting agreements in a matched book.

"(C) SECURITY.—For purposes of this paragraph, the term 'security' has the meaning given such term by section 1236(c).

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall pre-

scribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corporation during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year."

(3) Subsection (c) of section 852 is amended by inserting after "October 31 of such year" the following: ", without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of such year,".

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).", and

(2) by striking "AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248" in the subsection heading and inserting "CERTAIN PREVIOUSLY TAXED AMOUNTS".

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(11) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Clause (ii) of section 864(b)(2)(A) is amended by striking "(other than" and all that follows down through "holding company)" and inserting "(other than a corporation which would be a personal holding company but for section 542(c)(5) and which is not United States controlled (as defined in section 1292(a)(2))".

(14) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(15)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(16) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(17) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(18) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(19) Paragraph (5) of section 1014(b) is hereby repealed.

(20) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(21) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation."

(22) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(23) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(24)(A) Subsection (a) of section 6035 is amended by striking "foreign personal holding company (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

*(B) The section heading for section 6035 is amended by striking "**FOREIGN PERSONAL HOLDING COMPANIES**" and inserting "**CLOSELY HELD PASSIVE FOREIGN CORPORATIONS**".*

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking "foreign personal holding companies" in the item relating to section 6035 and inserting "closely-held passive foreign corporations".

(25) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(26) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(27) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

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

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

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

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4501. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4502. AUTHORITY TO VALIDATE CERTAIN 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 corpora-

tion 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.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS 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, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4503. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof 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 thereof 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)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4504. OTHER MODIFICATIONS.

(a) 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."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) 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.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) 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

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

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.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) 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)."

*(iii) The section heading for section 1375 is amended by striking "**SUBCHAPTER C**" and inserting "**ACCUMULATED**".*

(iv) 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".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof 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."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 4505. CERTAIN TRUSTS PERMITTED TO BE SHAREHOLDERS IN S CORPORATIONS.

(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 thereof 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 is amended by adding at the end thereof 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 an individual or estate,

"(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 employees' trust described in section 401(a) and exempt from tax under section 501(a).

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

PART II—ACCOUNTING PROVISIONS

SEC. 4511. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

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

SEC. 4512. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

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

SEC. 4513. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OPERATORS OF LICENSED COTTON WAREHOUSES.

(a) GENERAL RULE.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR OPERATORS OF LICENSED COTTON WAREHOUSES.—

"(1) IN GENERAL.—In the case of any taxpayer which is the operator of a licensed cotton warehouse and the taxable income of which is computed under an accrual method of accounting, such taxpayer shall not be required to accrue any amounts to be received for processing and storing cotton at such warehouse until such amounts are actually received.

"(2) INTEREST ON DEFERRED TAX LIABILITY.—

"(A) IN GENERAL.—If any deferred amount is received during any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of the interest determined under subparagraph (B) with respect to such deferred amount.

"(B) AMOUNT OF INTEREST.—The amount of interest determined under this subparagraph with respect to any deferred amount shall be determined—

"(i) on the amount of the tax for such taxable year which is attributable to such deferred amount,

"(ii) for the period beginning on the due date for the taxable year of the deferral and ending on the due date for the taxable year in which such deferred amount is received, and

"(iii) by using the Federal short-term rate in effect under section 1274 as of the due date for the taxable year in which such deferred amount is received, compounded semiannually.

"(3) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during the taxable year.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LICENSED COTTON WAREHOUSE.—The term 'licensed cotton warehouse' means any warehouse for the storage of cotton which is licensed under the United States Warehouse Act (7 U.S.C. 241, et seq.) or under any similar State law.

"(B) DEFERRED AMOUNT.—The term 'deferred amount' means any amount which is includible in gross income for the taxable year but which would have been includible in gross income for a prior taxable year but for this subsection.

"(C) TAXABLE YEAR OF DEFERRAL.—The taxable year of the deferral is the taxable year for which the deferred amount would have been includible in gross income but for this subsection.

"(D) DUE DATE.—The term 'due date' means the date prescribed for filing the return of tax imposed by this chapter, determined without regard to any extension.

"(5) ELECTION.—This subsection shall apply to a taxpayer only if such taxpayer makes an election under this paragraph. Such an election shall apply to the taxable year for which made and for all subsequent taxable years unless revoked with the consent of the Secretary."

(b) CONFORMING AMENDMENT.—Subparagraph (N) of section 26(b)(2) is amended by striking "sections 453(l)(3)" and inserting "sections 451(h)(2), 453(l)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts accrued

in taxable years beginning after December 31, 1991.

PART III—TAX-EXEMPT BOND PROVISIONS

SEC. 4521. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4522. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4523. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4524. ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.

(a) EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $25,000,000.—

(1) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) (relating to exception for certain tax-exempt obligations) are each amended by striking "$10,000,000" each place it appears and inserting "$25,000,000".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to obligations issued in calendar years beginning after December 31, 1992.

(b) DEDUCTIBILITY AVAILABLE TO PARTICIPANTS IN POOLED ISSUES.—

(1) IN GENERAL.—Subparagraph (A) of section 265(b)(3) is amended by inserting "and any qualified tax-exempt pooled obligation acquired after December 31, 1992," after "after August 7, 1986,".

(2) QUALIFIED TAX-EXEMPT POOLED OBLIGATION DEFINED.—Section 265(b)(3) is amended by adding at the end thereof the following new subparagraph:

"(G) QUALIFIED TAX-EXEMPT POOLED OBLIGATION.—For purposes of subparagraph (A), the term 'qualified tax-exempt pooled obligation' means a tax-exempt obligation—

"(i) which is issued after December 31, 1992,

"(ii) which is not a private activity bond (as defined in section 141),

"(iii) which is designated by the issuer for purposes of this paragraph, and

"(iv) the proceeds of which are used exclusively (other than to pay the issuance costs of such obligation) to acquire from the issuer obligations—

"(I) which satisfy the requirements of this paragraph but are not designated for purposes of this paragraph, and

"(II) the weighted average maturity of which equals or exceeds the weighted average maturity of such obligation."

SEC. 4525. TAX TREATMENT OF 501(c)(3) BONDS SIMILAR TO GOVERNMENTAL BONDS.

(a) IN GENERAL.—Subsection (a) of section 150 (relating to definitions and special rules) is amended by striking paragraphs (2) and (4), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT PERSON.—

"(A) IN GENERAL.—The term 'exempt person' means—

"(i) a governmental unit, or

"(ii) a 501(c)(3) organization, but only with respect to its activities which do not constitute unrelated trades or businesses as determined by applying section 513(a).

"(B) GOVERNMENTAL UNIT NOT TO INCLUDE FEDERAL GOVERNMENT.—The term 'governmental unit' does not include the United States or any agency or instrumentality thereof.

"(C) 501(c)(3) ORGANIZATION.—The term '501(c)(3) organization' means any organization described in section 501(c)(3) and exempt from tax under section 501(a)."

(b) REPEAL OF QUALIFIED 501(c)(3) BOND DESIGNATION.—Section 145 (relating to qualified 501(c)(3) bonds) is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 141(b) is amended—

(A) by striking "government use" in subparagraph (A)(ii)(I) and subparagraph (B)(ii) and inserting "exempt person use",

(B) by striking "a government use" in subparagraph (B) and inserting "an exempt person use",

(C) by striking "related business use" in subparagraph (A)(ii)(II) and subparagraph (B) and inserting "related private business use",

(D) by striking "RELATED BUSINESS USE" in the heading of subparagraph (B) and inserting "RELATED PRIVATE BUSINESS USE", and

(E) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(2) Subparagraph (A) of section 141(b)(6) is amended by striking "a governmental unit" and inserting "an exempt person".

(3) Paragraph (7) of section 141(b) is amended—

(A) by striking "government use" and inserting "exempt person use", and

(B) by striking "GOVERNMENT USE" in the heading thereof and inserting "EXEMPT PERSON USE".

(4) Section 141(b) is amended by striking paragraph (9).

(5) Paragraph (1) of section 141(c) is amended by striking "governmental units" and inserting "exempt persons".

(6) Section 141 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN ISSUES USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if any portion of the net proceeds of the issue are to be used (directly or indirectly) by an exempt person described in section 150(a)(2)(A)(ii) to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

"(4) CERTAIN PROPERTY TREATED AS NEW PROPERTY.—Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

"(A) IN GENERAL.—If—

"(i) the 1st use of property is pursuant to taxable financing,

"(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

"(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

"(B) SPECIAL RULE WHERE NO OPERATING STATE OR LOCAL PROGRAM FOR TAX-EXEMPT FINANCING.—If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) TAX-EXEMPT FINANCING.—The term 'tax-exempt financing' means financing provided by tax-exempt bonds.

"(ii) TAXABLE FINANCING.—The term 'taxable financing' means financing which is not tax-exempt financing."

(7) Section 141(f), as redesignated by paragraph (6), is amended—

(A) by adding "or" at the end of subparagraph (E),

(B) by striking ", or" at the end of subparagraph (F), and inserting in lieu thereof a period, and

(C) by striking subparagraph (G).

(8) The last sentence of section 144(b)(1) is amended by striking "(determined" and all that follows to the period.

(9) Clause (ii) of section 144(c)(2)(C) is amended by striking "governmental unit" and inserting "exempt person".

(10) Section 146(g) is amended—

(A) by striking paragraph (2), and

(B) by redesignating the remaining paragraphs after paragraph (1) as paragraphs (2) and (3), respectively.

(11) The heading of section 146(k)(3) is amended by striking "GOVERNMENTAL" and inserting "EXEMPT PERSON".

(12) The heading of section 146(m) is amended by striking "GOVERNMENT" and inserting "EXEMPT PERSON".

(13) Subsection (h) of section 147 is amended to read as follows:

"(h) CERTAIN RULES NOT TO APPLY TO MORTGAGE REVENUE BONDS AND QUALIFIED STUDENT LOAN BONDS.—Subsections (a), (b), (c), and (d)

shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond."

(14) Section 147 is amended by striking paragraph (4) of subsection (b) and redesignating paragraph (5) of such subsection as paragraph (4).

(15) Subparagraph (F) of section 148(d)(3) is amended—

(A) by striking "or which is a qualified 501(c)(3) bond", and

(B) by striking "GOVERNMENTAL USE BONDS AND QUALIFIED 501(C)(3)" in the heading thereof and inserting "EXEMPT PERSON".

(16) Subclause (II) of section 148(f)(4)(B)(ii) is amended by striking "(other than a qualified 501(c)(3) bond)".

(17) Clause (iv) of section 148(f)(4)(C) is amended—

(A) by striking "a governmental unit or a 501(c)(3) organization" each place it appears and inserting "an exempt person", and

(B) by striking "qualified 501(c)(3) bonds,".

(18) Subparagraph (A) of section 148(f)(7) is amended by striking "(other than a qualified 501(c)(3) bond)".

(19) Paragraph (2) of section 149(d) is amended—

(A) by striking "(other than a qualified 501(c)(3) bond)", and

(B) by striking "CERTAIN PRIVATE" in the heading thereof and inserting in lieu thereof "PRIVATE".

(20) Section 149(e)(2) is amended—

(A) by striking "which is not a private activity bond" in the second sentence and inserting "which is a bond issued for an exempt person described in section 150(a)(2)(A)(i)", and

(B) by adding at the end thereof the following new sentence: "Subparagraph (D) shall not apply to any bond which is not a private activity bond but which would be such a bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person."

(21) The heading of subsection (b) of section 150 is amended by striking "TAX-EXEMPT PRIVATE ACTIVITY BONDS" and inserting "CERTAIN TAX-EXEMPT BONDS".

(22) Paragraph (3) of section 150(b) is amended—

(A) by inserting "owned by a 501(c)(3) organization" after "any facility" in subparagraph (A),

(B) by striking "any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond" in subparagraph (A) and inserting "any bond which, when issued, purported to be a tax-exempt bond, and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person", and

(C) by striking the heading thereof and inserting "BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—".

(23) Paragraph (5) of section 150(b) is amended—

(A) by striking "private activity" in subparagraph (A),

(B) by inserting "and which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person" after "tax-exempt bond" in subparagraph (A),

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) such facility is required to be owned by an exempt person, and", and

(D) by striking "GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS" in the heading thereof and inserting "EXEMPT PERSONS".

(24) Section 150, as amended by section 4525, is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN RULES TO APPLY TO BONDS FOR EXEMPT PERSONS OTHER THAN GOVERNMENTAL UNITS.—

"(1) IN GENERAL.—Nothing in section 103(a) or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond which would be a private activity bond if the 501(c)(3) organization using the proceeds thereof were not an exempt person unless such bond satisfies the requirements of subsections (b) and (f) of section 147.

"(2) SPECIAL RULE FOR POOLED FINANCING OF 501(C)(3) ORGANIZATION.—

"(A) IN GENERAL.—At the election of the issuer, a bond described in paragraph (1) shall be treated as meeting the requirements of section 147(b) if such bond meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A bond meets the requirements of this subparagraph if—

"(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

"(ii) each loan described in clause (i) satisfies the requirements of section 147(b) (determined by treating each loan as a separate issue),

"(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued)."

(25) Section 1302 of the Tax Reform Act of 1986 is repealed.

(26) Subparagraph (C) of section 57(a)(5) is amended by striking clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(27) Paragraph (3) of section 103(b) is amended by inserting "and section 150(f)" after "section 149".

(28) Paragraph (3) of section 265(b) is amended—

(A) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 (or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)))).'"; and

(B) by striking "(other than a qualified 501(c)(3) bond, as defined in section 145)" in subparagraph (C)(ii)(I).

(f) EFFECTIVE DATE; SPECIAL RULE.—The amendments made by this section shall apply to bonds issued after December 31, 1992.

(2) SPECIAL RULE FOR CERTAIN BONDS ISSUED AFTER DATE OF ENACTMENT.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any bond which—

(i) is issued after the date of the enactment of this Act, and

(ii) is part of an issue which is subject to any transitional rule under subtitle B of title XIII of the Tax Reform Act of 1986.

(B) ELECTION OUT.—This paragraph shall not apply to any issue with respect to which the issuer elects not to have this paragraph apply.

SEC. 4526. AUTHORITY TO TERMINATE REQUIRED INCLUSION OF TAX-EXEMPT INTEREST ON RETURN.

Subsection (d) of section 6012 (relating to tax-exempt interest required to be shown on return) is amended by adding at the end thereof the following new sentence: "The Secretary may by regulations provide that the preceding sentence shall not apply in any case in which the Secretary determines that the disclosure of such interest is not useful for tax administration."

SEC. 4527. TAX-EXEMPT FINANCING FOR UNITED NATIONS OFFICE BUILDINGS.

(a) IN GENERAL.—A bond described in subsection (b) shall be treated as described in section 141(e)(1) of the Internal Revenue Code of 1986, but section 147(d) of such Code shall not apply to such bond.

(b) BOND DESCRIBED.—A bond is described in this subsection if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance any office building (including land and space for supporting activities which are functionally related and subordinate thereto) for the United Nations or any agency or instrumentality thereof.

SEC. 4528. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4529. AUTHORITY TO WAIVE YIELD RESTRICTIONS ON TAX-EXEMPT BOND ARBITRAGE.

(a) IN GENERAL.—Subsection (i) of section 148 (relating to arbitrage) is amended to read as follows:

"(i) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(2) REGULATIONS MAY PERMIT REBATE TO SATISFY YIELD RESTRICTION.—Except as provided in paragraph (3), notwithstanding the yield restriction requirements of subsections (a), (c), and (d), the Secretary may prescribe regulations permitting any investment of the proceeds of an issue in higher yielding investments without causing any bond which is part of such issue to be an arbitrage bond if the requirements of paragraphs (2) and (3) of subsection (f) are met.

"(3) EXCEPTIONS.—The regulations prescribed under paragraph (2) shall not apply for purposes of—

"(A) section 149(d)(3) (relating to advance refundings), and

"(B) subsection (f)(4)(C)(viii)(II) (relating to election to terminate 1½ percent penalty)."

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

SEC. 4530. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

PART IV—INSURANCE PROVISIONS

SEC. 4531. 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, 1991.

SEC. 4532. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

"(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract, and

"(3) for which reserves are valued at market for annual statement purposes.

"(e) REGULATIONS.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3) and 807(d)(2)(B) with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and using a method that approximates the yield on the assets underlying the contract, and to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company, and

"(4) as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1991.

PART V—COOPERATIVES

SEC. 4541. DISCHARGE OF INDEBTEDNESS INCOME FROM PREPAYMENT OF REA LOANS.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking ", 306B," in clause (ii), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) from the prepayment of a loan under section 306B(b) of the Rural Electrification Act of 1936 (as in effect on January 1, 1991)."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 501(c)(12) is amended—

(1) by striking "or" in clause (iii),

(2) by striking "306B" in clause (iv),

(3) by striking the period at the end of clause (iv) and inserting ", or", and

(4) by adding at the end the following new clause:

"(v) from the prepayment of a loan under section 306B(b) of the Rural Electrification Act of 1936 (as in effect on January 1, 1991)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to prepayments made after December 31, 1992.

SEC. 4542. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) 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 adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) is amended by inserting before the comma at the end thereof ", other than income described in subparagraph (E)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account."

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

"(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

"(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

SEC. 4543. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.—Section 277(b)

(relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1) (determined without regard to section 143(k)(9)(E)).".

(b) APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES.—

(1) PATRONAGE EARNINGS MAY BE OFFSET ONLY BY PATRONAGE LOSSES.—Section 1388(a) is amended by adding at the end the following new sentence: "In no event shall any patronage losses of an organization described in section 277(b)(5) be used to offset earnings which are not patronage earnings."

(2) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388 is amended by adding at the end the following new subsection:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any project operated by the corporation..

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1) (without regard to section 143(k)(9)(E)).

"(B) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(C) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENT.—Section 1388(j) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.

SEC. 4544. TREATMENT OF SAFE HARBOR LEASES INVOLVING RURAL ELECTRIC COOPERATIVES.

(a) IN GENERAL.—In the case of a rural electric cooperative described in section 1381(a)(2)(C) of the Internal Revenue Code of 1986, any interest income in connection with a transaction involving qualified leased property which was treated as a lease under section 168(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by the Tax Reform Act of 1986) or any corresponding prior provision of law shall be offset by any rental expense in connection with such transaction before allocation of such income or expense to members and nonmembers of such cooperatives for purposes of such Code.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

PART VII—TREATMENT OF INTANGIBLES

SEC. 4551. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 16-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 16 years, or

"(ii) is fixed as to amount and, without regard to this section, would be amortizable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) MORTGAGE SERVICING.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than rights described in this paragraph) constituting a trade or business or substantial portion thereof.

"(8) PROPERTY ACQUIRED FROM A QUALIFIED RESEARCH ENTITY.—At the election of the taxpayer, any property acquired by the taxpayer from a qualified research entity (as defined in subsection (g)), but only if substantially all of the section 197 intangibles (determined without regard to this paragraph) acquired in the transaction (or series of related transactions) in which the property was acquired—

"(A) were created by the qualified research entity, or

"(B) were acquired by the qualified research entity in a transaction (or series of related transactions) to which this paragraph would have applied (without regard to subsection (c)(1)(A)) if an election had been made.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable under this chapter before the effective date of this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) QUALIFIED RESEARCH ENTITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research entity' means any person which meets—

"(A) the value requirement of paragraph (2),

"(B) the receipts and research expenditures requirements of paragraph (3), and

"(C) the ownership requirements of paragraph (4).

"(2) VALUE REQUIREMENT.—

"(A) IN GENERAL.—The requirement of this paragraph is met with respect to any person if, as of the acquisition date, the excess of—

"(i) the fair market value of the assets of such person, over

"(ii) the aggregate amount of indebtedness of the person with a maturity of one year or less at the time of issuance,

does not exceed $50,000,000.

"(B) SPECIAL RULE FOR SOLE PROPRIETORS.—In the case of a sole proprietor, only assets and indebtedness allocable to trades or businesses of the proprietor shall be taken into account under subparagraph (A).

"(3) RECEIPTS AND RESEARCH EXPENDITURES.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any person if—

"(i) the person did not have any gross receipts during any period preceding the 5-year period ending on the acquisition date, and

"(ii) during the person's entire period of existence on or before the acquisition date, the aggregate amount of expenditures for research or experimentation (within the meaning of section 174) which are technological in nature is not less than the greater of—

"(I) $500,000, and

"(II) 30 percent of the person's aggregate gross receipts during such period.

"(B) EARNINGS ON SHORT-TERM INVESTMENTS.—For purposes of subparagraph (A), gross receipts shall not include earnings on any

short-term investment of amounts held to meet the reasonable business needs of the person for working capital.

"(C) SPECIAL RULE FOR SOLE PROPRIETORSHIPS.—In the case of a sole proprietorship, this paragraph shall be applied only with respect to receipts and expenditures in connection with one or more trades or businesses of the sole proprietor from which the property to which the election under subsection (e)(8) applies was acquired.

"(D) GROSS RECEIPTS.—For purposes of this paragraph, a rule similar to the rule of subparagraph (C) of section 448(c)(3) shall apply.

"(4) OWNERSHIP REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any person if, at all times during the period of existence of the person on or before the acquisition date—

"(i) at least 50 percent of its fair market value is held directly by 5 or fewer persons other than corporations, and

"(ii) at least 50 percent of its fair market value is held by individuals.

"(B) ATTRIBUTION RULES.—For purposes of subparagraph (A)(ii), the constructive ownership rules of subparagraphs (A) and (B) of section 318(a)(2) shall apply.

"(C) EXCEPTION.—This paragraph shall not apply to any sole proprietor.

"(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) ACQUISITION DATE.—The term 'acquisition date' means the date of the acquisition to which the election under subsection (e)(8) applies.

"(B) AGGREGATION RULES.—All persons treated as a single taxpayer under section 41(f)(1) shall be treated as 1 person for purposes of this paragraph. This subparagraph shall not apply to a sole proprietor for purposes of paragraph (3).

"(C) PREDECESSORS.—For purposes of this subsection and subsection (e)(8), a rule similar to the rule of section 448(c)(3)(D) shall apply.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to—

"(1) prevent avoidance of the purposes of this section through related persons or otherwise, and

"(2) prevent the avoidance of the $50,000,000 limitation under subsection (g)(2) through the sale, spin-off, or other disposition of assets prior to a sale, through covenants not to compete or employment contracts, or through the manipulation of short-term indebtedness."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible or any such software acquired in a transaction to which subsection (e)(8) applies.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTION TO SETTLE TREATMENT OF PROPERTY FOR PURPOSES OF ALL OPEN YEARS.—

(A) IN GENERAL.—If an election under this paragraph applies to any taxpayer—

(i) in the case of—

(I) any applicable intangible acquired during a return year, 75 percent of the applicable adjusted basis of the intangible shall be treated for purposes of the Internal Revenue Code of 1986 for all open years in the same manner as on the taxpayer's Federal income tax return for such year, and

(II) any applicable intangible acquired during a taxable year which is not a return year, the amendments made by this section shall apply for all open years to 75 percent of the applicable adjusted basis of the intangible, and

(ii) 25 percent of the applicable adjusted basis of the intangible for all open years shall be treated for purposes of the Internal Revenue Code of 1986 as goodwill with respect to which a deduction for depreciation or amortization is not allowable.

(B) APPLICABLE INTANGIBLE; OPEN YEAR.—For purposes of this paragraph—

(i) APPLICABLE INTANGIBLE.—The term "applicable intangible" means any property which is an amortizable section 197 intangible under section 197(c) of the Internal Revenue Code of 1986 (without regard to paragraph (1)(A) thereof) which is amortized as an intangible asset on the taxpayer's Federal income tax return. Such term shall not include any intangible with respect to which a settlement or closing agreement, or final judicial determination, provided an irrevocable resolution of the proper Federal income tax treatment of the intangible.

(ii) OPEN YEARS.—A taxable year is an open year if—

(I) the period prescribed by section 6501 of such Code for the assessment of any tax for such taxable year has not expired before June 16, 1992 (determined without regard to subparagraph (D)(iii)), and a settlement or closing agreement, or final judicial determination, has not been entered into before the date of the election under this paragraph which provides an irrevocable resolution of the proper Federal income tax treatment for such year of all deductions attributable to applicable intangibles, or

(II) as of June 16, 1992, a claim for refund is pending with the Internal Revenue Service (or a refund suit is pending in a Federal court), but only if such claim or suit involves (or may involve) the proper Federal income tax treatment for such year of any applicable intangible.

(iii) IRREVOCABLE RESOLUTION.—For purposes of this subparagraph, the resolution of an item shall not be treated as irrevocable unless the taxpayer consents, in the election under this paragraph, to forego any right to challenge such resolution.

(C) APPLICABLE ADJUSTED BASIS.—For purposes of this paragraph, the term "applicable adjusted basis" means—

(i) in the case of property acquired during a return year, the adjusted basis (for purposes of determining gain) allocated to such property as reflected on the Federal income tax return for such year (or, if different, as reflected on the Federal income tax return for the following taxable year if such year is a return year), and

(ii) in the case of property not acquired during a return year, its adjusted basis (for purposes of determining gain) as determined under the Internal Revenue Code of 1986.

(D) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

(i) RETURN YEARS.—A return year is a taxable year for which a Federal income tax return has been filed before June 16, 1992.

(ii) AMENDED RETURNS.—In the case of a return year, any determination under subparagraph (A)(i)(I), (B)(i), or (C)(i) as to the treatment of an item on a Federal income tax return shall be made on the basis of the return, taking into account only amendments to such return filed on or before July 25, 1991, and settlement or closing agreements entered into before the date an election is made under subparagraph (E).

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act, or at any time within the 2-year period beginning on the date the election is made, by any law or rule of law, such deficiency may, nevertheless, be assessed within the 2-year period.

(iv) UNDERPAYMENTS.—If an election under this paragraph results in any underpayment of tax for a return year, such election shall not be treated as valid unless the taxpayer pays such tax (and any interest thereon) before January 1, 1993.

(v) ANTI-CHURNING RULES.—In the case of property to which subparagraph (A)(i) applies which was acquired in a taxable year other than a return year—

(I) subsection (f)(9) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(II) in applying such subsection to property acquired after July 25, 1991, and before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(E) ELECTION.—

(i) IN GENERAL.—An election under this paragraph shall be made before January 1, 1993, and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

(ii) LIMITATION ON ELECTION.—No election may be made under this paragraph unless the election would apply to an asset acquired on or before July 25, 1991.

(iii) CONTROLLED GROUPS.—In the case of 2 or more persons under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Internal Revenue Code of 1986), an election under this paragraph shall be made by the common parent corporation (or equivalent person) and shall apply to all persons under such common control after February 14, 1992, and before the date on which such election is made. The Secretary of the Treasury or his delegate shall prescribe rules for the application of the election to persons which were not under common control for all open years, including rules allowing persons to make an election under this paragraph for open years in which such persons were not under common control.

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act, and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 4552. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

PART VIII—OTHER PROVISIONS

SEC. 4561. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1992.

SEC. 4562. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after December 31, 1991.

SEC. 4563. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT USE OF REFORESTATION TRUST FUND.

Section 303 of Public Law 96-451 (16 U.S.C. 1606a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "$30,000,000" and inserting "$45,000,000"; and

(B) by adding at the end thereof the following new paragraphs:

"(4) Of the amounts transferred to the Trust Fund under paragraph (1) in any fiscal year—

"(A) $30,000,000 shall be allocated and made available to the Secretary of Agriculture; and

"(B) the remaining balance shall be allocated and made available to the Secretary of the Interior.

"(5)(A) If the remaining balance allocated and made available to the Secretary of the Interior under paragraph (4)(B) is less than $15,000,000 in any fiscal year, the Secretary of the Treasury shall transfer to the Trust Fund and make available to the Secretary of the Interior, in accordance with subparagraph (B), an amount equal to the difference between $15,000,000 and the remaining balance.

"(B) The amount transferred pursuant to subparagraph (A) shall be obtained as follows:

"(i) 93⅓ percent of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon; and

"(ii) the remainder of the amount shall be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.";

(2) in the first sentence of subsection (c)(1) by inserting "and the Secretary of the Interior" after "Secretary of Agriculture";

(3) in subsection (d)—

(A) by striking "available" and inserting "available to the Secretary of Agriculture"; and

(B) by striking "amounts" and inserting "amounts that were available to the Secretary of Agriculture but"; and

(4) by adding at the end thereof the following new subsection:

"(e)(1) In accordance with paragraph (2), the Secretary of the Interior may obligate, in each fiscal year, such sums as are available to the Secretary of the Interior in the Trust Fund to supplement expenditures of the Bureau of Land Management for, in order of priority—

"(A) reforestation and forest development of public lands administered by the Secretary of the Interior acting through the Bureau of Land Management, including projects to improve the overall health and productivity of the forest ecosystem;

"(B) negotiation and implementation of cooperative relationships, including the acquisition of voluntary cooperative conservation easements, when such relationships promote or en-

hance successful reforestation or forest development or contribute to the long-term productivity of the forest ecosystem; and

"(C) properly allocable administrative costs of the Federal Government for the activities described in subparagraphs (A) and (B).

"(2) The Secretary of the Interior shall allocate the sums described in paragraph (1) as follows:

"(A) $14,000,000 for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon; and

"(B) $1,000,000 for public domain lands, to be allocated among the States in which the lands are located by taking into account, in order of priority—

"(i) the level of timber sales (measured in board feet) from the public domain lands within each State in the previous calendar year;

"(ii) the amount of reforestation backlog in the State;

"(iii) the need for planting as part of the reforestation program; and

"(iv) the need for forest development as part of the reforestation program."

SEC. 4564. PRIVATE FOUNDATIONS PERMITTED TO USE COMMON INVESTMENT FUNDS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is comprised solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization, or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisors, following reasonable notice, if members holding a majority of interest in the account managed by such advisor vote to remove such advisor,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."

(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1992.

SEC. 4565. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subparagraph (A) of section 29(c)(2) (relating to gas from geopressured brine, etc.) is amended by adding at the end the following new sentence: "If the Federal Energy Regulatory Commission ceases to make the determinations described in the preceding sentence, the Secretary shall make such determinations in accordance with section 503 of such Act."

(b) CONFORMING AMENDMENT.—Section 29(c)(2)(A) is amended by inserting "(as in effect before its repeal by the Natural Gas Wellhead Decontrol Act of 1989) after "Natural Gas Policy Act of 1978".

Subtitle F—Estate And Gift Tax Provisions

SEC. 4601. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4602. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

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

SEC. 4603. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4604. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4605. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4606. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4607. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) ACCUMULATION DISTRIBUTIONS.—

(1) IN GENERAL.—Section 665 is amended by adding at the end the following new subsection:

"(f) ACCUMULATION DISTRIBUTIONS AFTER 1992.—For purposes of this subpart—

"(1) IN GENERAL.—In the case of a qualified trust, any distribution in any taxable year beginning after December 31, 1992, shall be computed without regard to any undistributed net income.

"(2) QUALIFIED TRUST.—For purposes of this subsection, the term 'qualified trust' means any trust other than—

"(A) a foreign trust, or

"(B) a trust created before March 1, 1984, unless it is established that the trust would not be aggregated with other trusts under section 643(f) if such section applied to such trust."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (b)," after "subpart,"

(b) PROPERTY TRANSFERRED TO TRUSTS.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a qualified trust (as defined in section 665(f)(2)), any sale or exchange of property after December 31, 1992."

(c) EFFECTIVE DATES.—

(1) ACCUMULATION DISTRIBUTION.—The amendments made by subsection (a) shall apply to distribution in taxable years beginning after December 31, 1992.

(2) TRANSFERRED PROPERTY.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1992.

SEC. 4608. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end thereof the following new paragraph:

"(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to with respect to rentals occurring after December 31, 1976.

SEC. 4609. INTEREST ACCRUING ON SALES BETWEEN FAMILY MEMBERS.

(a) IN GENERAL.—Section 7872(f) is amended by adding at the end the following new paragraph:

"(13) QUALIFIED SALES BETWEEN FAMILY MEMBERS.—In the case of interest accruing after July 31, 1993, on a loan arising in connection with a qualified sale to which section 483(e) applies, the determination as to whether there is foregone interest on such loan or whether such loan is a below-market loan shall be made by substituting 6 percent for the applicable Federal rate (if 6 percent is less than such rate) to the extent the sales price does not exceed the amount to which section 483(e) applies."

(b) CONFORMING AMENDMENT.—Section 483(g) is amended by adding at the end the following new paragraph:

"(3) For treatment of qualified sales under subsection (e) for purposes of estate and gift taxes, see section 7872(f)(13)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing after July 31, 1993, in taxable years ending after such date.

Subtitle G—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4701. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4702. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered motorboat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

Paragraph (14) shall not apply with respect to any mixture sold or used after September 30, 2000.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) for purposes of the tax imposed under section 4091, a motorboat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the motorboat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4703. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4704. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesig-

nating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4705. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4711. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4712. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4713. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4714. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4715. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

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

SEC. 4716. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on

unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4717. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4718. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4719. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4720. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4721. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4731. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4732. SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.

(a) IN GENERAL.—Section 4182 (relating to exemptions), is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a manufacturer, producer, or importer who manufactures, produces, or imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUP.—Persons who are members of the same controlled group of corporations shall be treated as 1 manufacturer, producer, or importer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such section.".

(b) EFFECTIVE DATE; REFUNDS.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for claiming a credit or refund of any overpayment of tax resulting from the application of the amendments made by this section shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), credit or refund of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), credit or refund of such overpayment (to the extent attributable to the application of the amendments made by this section) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 4733. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

SEC. 4734. EXEMPTION FOR TRANSPORTATION ON CERTAIN FERRIES.

(a) GENERAL RULE.—Subparagraph (B) of section 4472(1) (relating to exception for certain voyages on passenger vessels) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN VOYAGES.—The term 'covered voyage' shall not include—

"(i) a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States, and

"(ii) a voyage of less than 12 hours on a ferry between a port in the United States and a port outside the United States.

For purposes of the preceding sentence, the term 'ferry' means any vessel if normally no more than 50 percent of the passengers on any voyage of such vessel return to the port where such voyage began on the 1st return of such vessel to such port."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1989; except that—

(1) no refund of any tax paid before the date of the enactment of this Act shall be made by reason of such amendment, and

(2) any tax collected before the date of the enactment of this Act shall be remitted.

SEC. 4735. APPLICATION OF CERTAIN TAXES TO CERTAIN BUSINESS AIRCRAFT.

(a) IN GENERAL.—Subsection (a) of section 4282 (relating to transportation by air for other members of affiliated group) is amended by adding at the end the following new sentence: "The determination under paragraph (2) shall be made on a per flight basis."

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

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4801. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domes-

tic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4802. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4803. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4804. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof 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."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) 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."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

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

SEC. 4805. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the

taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

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

PART II—TAX COURT PROCEDURES

SEC. 4811. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

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

SEC. 4812. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4813. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

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

SEC. 4814. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

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

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4821. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

PART IV—EMPLOYMENT TAX PROVISION

SEC. 4831. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

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

(1) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end thereof 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."

(2) 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,".

(3) CONFORMING AMENDMENT.—Section 6050A(a) (relating to reporting requirements of certain fishing boat operators) 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)."

(b) AMENDMENT OF SOCIAL SECURITY ACT.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end thereof 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."

(2) 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,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration paid after December 31, 1992.

(2) SPECIAL RULE.—The amendments made by this section shall also apply to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

TITLE V—TAXPAYER BILL OF RIGHTS 2

SEC. 5000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 2".

Subtitle A—Taxpayer Advocate

SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office, including all problem resolution officers, shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the Chief Counsel for the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

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

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

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

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

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

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than October 31 of each calendar year after 1992, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the following calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than June 30 of each calendar year after 1992, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

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

"(II) contain recommendations received from individuals with the authority to issue taxpayer assistance orders under section 7811,

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

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

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

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

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

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

"(IX) include such other information as the Taxpayer Advocate may deem advisable.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to taxpayer assistance orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

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

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

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

SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of taxpayer assistance orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded only by the Taxpayer Advocate, the Commissioner, or any superior of either."

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

Subtitle B—Modifications to Installment Agreement Provisions

SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) DENIALS.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE REQUIREMENTS FOR DENIALS.—The Secretary may not deny any request for an installment agreement under this section unless—

"(1) a notice of the proposed denial is provided to the taxpayer not later than the day 30 days before the date of such denial, and

"(2) such notice includes an explanation why the Secretary intends to deny such request.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which a request for an agreement under this section relates is in jeopardy."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR, OR TERMINATION OF, INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments), as amended by section 5101, is amended by adding at the end thereof the following new subsection:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of denials of requests for, or terminations of, installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1993.

Subtitle C—Interest

SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by striking "In the case" and inserting "With respect to any eligible taxpayer, in the case",

(2) by striking "in performing a ministerial act" in subparagraph (A),

(3) by striking "being erroneous or dilatory in performing a ministerial act" in subparagraph (B),

(4) by inserting "unreasonable" before "error" each place it appears, and

(5) by adding at the end thereof the following new sentence: "For purposes of this paragraph, a taxpayer is eligible if such taxpayer meets the requirements referenced in section 7430(c)(4)(C)."

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6651(a) (relating to addition to tax for failure to file tax return or pay tax) is amended by striking "10 days" and inserting "21 days".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

Subtitle D—Joint Returns

SEC. 5301. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having

material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

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

SEC. 5302. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

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

Subtitle E—Collection Activities

SEC. 5401. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice. A copy of such notice shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION AMOUNTS.—

(1) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So", and

(B) by striking "$1,650 ($1,500 in the case of levies issued during 1989)" and inserting "$1,700".

(2) BOOKS, ETC.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession exempt from levy) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,200".

(3) INDEXED FOR INFLATION.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(f) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1992, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) EFFECTIVE DATES.—

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

(2) EXEMPT AMOUNTS.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1992.

SEC. 5402. OFFERS-IN-COMPROMISE.

(a) GENERAL RULE.—Subsection (a) of section 7122 (relating to compromises) is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interests of the United States.".

(b) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

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

SEC. 5403. NOTIFICATION OF EXAMINATION.

(a) IN GENERAL.—Section 7605 (relating to restrictions on examination of taxpayer) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) NOTIFICATION REQUIREMENT.—No examination described in subsection (a) shall be made unless the Secretary notifies the taxpayer in writing by mail to an address determined under section 6212(b) that the taxpayer is under examination and provides the taxpayer with an explanation of the process as described in section 7521(b)(1). The preceding sentence shall not apply in the case of any examination if the Secretary determines that—

"(1) such examination is in connection with a criminal investigation or is with respect to a tax the collection of which is in jeopardy, or

"(2) the application of the preceding sentence would be inconsistent with national security needs or would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 7521(b) (relating to safeguards) is amended by striking "or at".

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

SEC. 5404. MODIFICATION OF CERTAIN LIMITS ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) STANDARDS OF CONDUCT.—Subsection (a) of section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by striking "recklessly or intentionally" and inserting "negligently, or recklessly or intentionally."

(b) DOLLAR LIMITS WITH RESPECT TO STANDARD OF CONDUCT.—Section 7433(b) (relating to damages) is amended—

(1) by inserting ($1,000,000, in the case of reckless or intentional disregard)" after "$100,000", and

(2) by inserting "negligent, or" before "reckless or intentional" in paragraph (1).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 5405. SAFEGUARDS RELATING TO DESIGNATED SUMMONS.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) NOTICE REQUIREMENTS FOR ISSUANCE.—Section 6503(k) is amended by adding at the end thereof the following new paragraph:

"(4) NOTICE REQUIREMENTS.—With respect to any summons referred to in paragraph (1)(A) issued to any person other than the corporation, the Secretary shall promptly notify the corporation, in writing, that such summons has been issued with respect to such corporation's return of tax."

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

Subtitle F—Information Returns

SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).

(2) Section 6041A(e)(1).

(3) Section 6042(c)(1).

(4) Section 6044(e)(1).

(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 4 years after the date of the filing of the false or fraudulent information return, or

"(2) 1 year after the date such false or fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS.—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The judgment of the court in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.
"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall present reasonable and probative information concerning such deficiency in addition to such information return."

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

Subtitle G—Modifications To Penalty for Failure to Collect and Pay Over Tax

SEC. 5601. PRELIMINARY NOTICE REQUIREMENT.

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

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the date 90 days after the date on which such notice was mailed.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5602. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(d) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 21 days after the date of such failure,

"(C) such notification was before any notice by the Secretary to any person with respect to such failure, and

"(D) such failure is not a part of a plan to defraud the Federal Government.

"(2) SIGNIFICANT OWNER DEFINED.—For purposes of paragraph (1), the term 'significant owner' means—

"(A) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(B) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(3) SPECIAL RULES.—

"(A) ONE-TIME RELIEF.—This subsection shall apply only once with respect to—

"(i) any person, and

"(ii) any trade or business with respect to which the failure described in subsection (a) occurred.

"(B) APPLICATION OF SUBSECTION.—This subsection shall not apply if it results in no person being held liable for the penalty described in subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5603. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 5301, is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

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

SEC. 5604. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—

(A) IN GENERAL.—The penalty under section 6672 of the Internal Revenue Code of 1986 shall not be imposed on unpaid, volunteer members of any board of trustees or directors of an organization referred to in section 501 of such Code to the extent such members are solely serving in an honorary capacity, do not participate in the day-to-day or financial operations of the organization, and do not have actual knowledge of the failure on which such penalty is imposed.

(B) APPLICATION OF PARAGRAPH.—This paragraph shall not apply if it results in no person being held liable for the penalty described in section 6672(a) of the Internal Revenue Code of 1986.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board

members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes described in section 6672 of the Internal Revenue Code of 1986 of such failure within 30 days after the return was filed reflecting such failure or after the date on which the Secretary is first aware of such failure. If the person failing to make the deposit is not an individual, the Secretary shall notify the entity subject to such deposit requirement and that entity shall notify, within 15 days of the notification by the Secretary, all officers, general partners, trustees, or other managers of the failure.

Subtitle H—Awarding of Costs and Certain Fees

SEC. 5701. MOTION FOR DISCLOSURE OF INFORMATION.

Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) MOTION FOR DISCLOSURE OF INFORMATION.—Once a taxpayer substantially prevails as described in subparagraph (A)(ii), the taxpayer may file a motion for an order requiring the disclosure (within a reasonable period of time) of all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case and the substantial justification for the position taken by the Internal Revenue Service."

SEC. 5702. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following:

"In the case of any calendar year beginning after 1992, the dollar amount referred to in clause (iii) 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 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

SEC. 5703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 5704. EFFECTIVE DATE.

The amendments made by this subtitle shall apply in the case of proceedings commenced after the date of the enactment of this Act.

Subtitle I—Other Provisions

SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5802. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 5803. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations issued within 12 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse of a statute to which the regulation relates.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitations of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any regulation before the dates specified in paragraph (1).

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall apply with respect to—

(A) any temporary or proposed regulation filed on or after July 28, 1992, and

(B) any temporary or proposed regulation filed before July 28, 1992, and filed as a final regulation after such date.

(2) SPECIAL RULE.—Section 7805(b)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply only to statutes enacted on or after the date of the enactment of this Act.

(3) REGULATIONS RELATING TO EXCHANGE RATES.—The amendment made by subsection (a) shall not apply to any regulation issued pursuant to paragraph (1)(C) or (4) of section 986(a) of the Internal Revenue Code of 1986, as added by section 4421.

SEC. 5804. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or the Secretary's delegate (hereafter in the section referred to as the "Secretary") from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 5805. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) USE OF INFORMATION LIMITED.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, any information so obtained shall not be admissible as evidence in any judicial proceeding to which the taxpayer is a party, except to rebut a false representation made by such taxpayer."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Unauthorized enticement of information disclosure."

(b) CIVIL DAMAGES.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be

the exclusive remedy for recovering damages resulting from such actions.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending, shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and by adding at the end thereof the following new items:

"Sec. 7434. Civil damages for unauthorized enticement of information disclosure.

"Sec. 7435. Cross references."

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

Subtitle J—Form Modifications; Studies

SEC. 5900. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5901. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5902. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than June 30, 1993, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address information provided to the Secretary by taxpayers.

SEC. 5903. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

PART II—STUDIES

SEC. 5911. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5912. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5913. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than April 1, 1993, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than June 30, 1993, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5914. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During June 30, 1993 and during June of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5915. STUDY OF NOTICES OF DEFICIENCY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) REPORT.—Not later than June 30, 1993, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5916. NOTICE AND FORM ACCURACY STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) REPORTS.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than June 30, 1993.

SEC. 5917. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) REPORT.—Not later than June 30, 1993, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

TITLE VI—TECHNICAL CORRECTIONS

SEC. 6100. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Revenue Provisions

SEC. 6101. 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) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF DEDUCTION FOR MEDICAL INSURANCE OF SELF-EMPLOYED.—In determining the amount of adjusted gross income for purposes of this section, the amount of the deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) 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) Subsection (b) of section 4082 is amended to read as follows:

"(b) TAX ON CERTAIN USES.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) 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) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) 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.

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(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, 902, 952(c)(1), and 960 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 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) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) 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.

(3) 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) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) 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).".

(C) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) 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)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) 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)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(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(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) 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".

(C) 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 calendar year 1991.

(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 TRANSFERORS.—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 (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(b), 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—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof 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 and horses".

(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) Subsections (a)(45), (b)(14), and (c)(21) of section 11801 of the Revenue Reconciliation Act of 1990 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 6102. 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 CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

"(6) SUBSECTION NOT APPLICABLE TO MINIMUM TAX.—

"(A) IN GENERAL.—This subsection shall not apply for purposes of computing alternative minimum taxable income.

"(B) SPECIAL RULE.—Any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), 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.

(B) SPECIAL RULE.—Section 860E(6)(B) of the Internal Revenue Code of 1986 (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(f) 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 "dusted" 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) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma, and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) 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)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) 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.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(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.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) 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)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(30) 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)".

(31) The heading for paragraph (2) of section 6427(b) is amended by striking "3-CENT" and inserting "3.1-CENT".

(32) Subparagraph (C) of section 50(a)(2) is amended by striking "subsection (c)(4)" and inserting "subsection (d)(5)".

(33) 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)—".

(34) Subparagraph (A) of section 355(d)(7) is amended by inserting "section" before "267(b)".

(35) Subparagraph (C) of section 420(e)(1) is amended by striking "mean" and inserting "means".

(36) Paragraph (4) of section 537(b) is amended by striking "section 172(i)" and inserting "section 172(f)".

(37) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(38) Paragraph (4) of section 856(a) is amended by striking "section 582(c)(5)" and inserting "section 582(c)(2)".

(39) 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)".

(40) Subsection (b) of section 936 is amended by striking "subparagraphs (D)(ii)(I)" and inserting "subparagraphs (D)(ii)".

(41) 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)".

(42) Paragraph (1) of section 5002(b) is amended by striking "section 5041(c)" and inserting "section 5041(d)".

(43) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(44) 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);".

(45) 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).

(46) Subsection (b) of section 7454 is amended by striking "section 4955(e)(2)" and inserting "section 4955(f)(2)".

(47) 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.

(48) 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.

(49) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting "(relating to definitions)" after "section 6038(e)".

(50) 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.

(51) 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)".

(52) 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.

(53) 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)".

(54) 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)".

(55) 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.

(56) 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).

(57) 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.

(58) 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.

(59) 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)".

(60) 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)".

SEC. 6103. PENSION TECHNICALS.

(a) AMENDMENTS TO SUBTITLE B OF TITLE V OF UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1992.—

(1) AMENDMENTS TO SECTION 402.—

(A) Section 402(b)(4)(A) is amended by striking "paragraph (1) or (2)" and inserting "paragraph (1),".

(B) Section 402(c)(2) is amended by inserting "or subsection (e)(4)" after "paragraph (1)" the second place it appears.

(C) Section 402(c)(4) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting a comma and by adding at the end the following:

"(C) any distribution described in section 401(k)(2)(B)(i) (IV) or (V) or 403(b)(11) (B) or (C),

"(D) any distribution described in section 401(k)(8), 401(m)(6), or 402(g)(2), or any similar distribution specified by the Secretary in regulations,

"(E) any amount treated as a distribution by reason of a default on a loan described in section 72(p)(2), or any similar distribution specified by the Secretary in regulations, and

"(F) any distribution which is an applicable dividend (as defined in section 404(k)(2)).

For purposes of subparagraph (A), any social security supplemental payment described in the last sentence of section 411(a)(9) shall be disregarded in determining whether payments are substantially equal."

(D) Clause (iii) of section 402(d)(4)(A) is amended by striking "the" before "service".

(E) Section 402(e)(4)(A) is amended—

(i) by striking "the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any" and inserting "there shall be excluded from gross income the", and

(ii) by inserting "if any portion of the distribution is transferred in a transfer" after "distribution" in the last sentence thereof.

(F) The heading for section 402(e)(4)(B) is amended to read as follows: "(B) LUMP SUM DISTRIBUTION.—".

(G) Section 402(f)(1) is amended by adding at the end the following new sentence:

"In the case of a series of distributions, notice under this paragraph shall be required only before the first distribution in such series to which this subsection applies."

(2) AMENDMENTS RELATING TO DIRECT ROLLOVERS.—

(A) Section 401(a)(31)(A) is amended—

(i) by inserting "or portion thereof" after "such distribution" each place it appears,

(ii) by striking "trustee-to-trustee transfer" and inserting "rollover", and

(iii) by adding at the end the following new sentence:

"In the case of a series of distributions, an election under this subparagraph shall apply to all distributions which are part of the series after the election is made and before the election is revoked."

(B) Section 401(a)(31)(B) is amended—

(i) by striking "transferred" and inserting "directly rolled over", and

(ii) by inserting ", 402(e)(4)" after "402(c)".

(C) Section 401(a)(31)(C) is amended by inserting ", except that such term shall not include a distribution of less than $500, any distribution to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)), or any other distribution specified in regulations prescribed by the Secretary which is similar to distributions described in subparagraph (C), (D), or (E) of section 402(c)(4)" before the end period.

(D) Section 401(a)(31)(D) is amended by striking "it is a defined contribution plan, the terms of which" and inserting "the terms of the trust".

(E) Section 401(a)(31) is amended by adding at the end the following new subparagraph:

"(E) TREATMENT OF TRANSFER.—For purposes of this title, a direct rollover to which this paragraph applies (or in the case of an annuity contract under section 403(b), in a rollover to which section 402(c)(8) applies) shall be treated in the same manner as a distribution which the distributee transfers in a rollover to which section 402(c) applies."

(F) The heading for section 401(a)(31) is amended by striking "TRANSFER" and inserting "ROLLOVER".

(G) Section 402(e) is amended by striking paragraph (6).

(H) Section 403(a) is amended by striking paragraph (5).

(I) Section 403(b)(10) is amended by striking the last sentence.

(3) AMENDMENTS RELATED TO WITHHOLDING.—

(A) Section 3405(c)(2) is amended by striking "if" and inserting "to the extent".

(B) Section 3405(c)(3) is amended by striking "402(f)(2)(A)" the first place it appears and inserting "401(a)(31)(C)".

(C) Section 3405(c)(3) is amended by striking "402(f)(2)(A)" the second place it appears and inserting "403(b)(8)".

(D) Section 3405(c)(3) is amended by inserting ", except that such term shall not include a distribution of less than $500" before the end period.

(E) Section 3405(c) is amended by adding at the end the following new paragraph:

"(4) COORDINATION WITH SECTION 401(a)(9).—If a portion of a designated distribution—

"(A) is not an eligible rollover distribution by reason of being required under section 401(a)(9), and

"(B) is de minimis in relation to the total designated distribution,

such portion shall be treated as part of the eligible rollover distribution to which this subsection applies."

(4) OTHER AMENDMENTS.—

(A) Section 401(a)(20) is amended by striking "or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(B) Section 403(a)(4)(B) is amended by striking "(7)" and inserting "(8)".

(C) Section 411(d)(3) is amended by striking "on the day" and inserting "no later than".

(D) Section 522(d) of the Unemployment Compensation Amendments of 1992 is amended—

(i) by striking "a direct trustee-to-trustee transfer" and all that follows up to "the amendments" and inserting "a direct rollover from a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986)", and

(ii) by striking "ANNUITY CONTRACTS" in the heading and inserting "GOVERNMENTAL PLANS".

(E) Section 523 of the Unemployment Compensation Amendments of 1992 is amended—

(i) by inserting "the first day of" before "the first plan year", and

(ii) by striking "1994" and inserting "1995".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by the Unemployment Compensation Amendments of 1992.

(b) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO 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.—

"(1) TREATMENT OF CERTAIN REQUIRED CONTRIBUTIONS.—If any contribution is made by an employer under an individual account plan with respect to an employee 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—

"(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 403(b), 404(a), 408, 415, or 457, and

"(B) such plan shall not be treated as failing to meet any requirement of this part or section 457 by reason of the making of such contribution and such contribution shall not be taken into account in applying the limitations referred to in subparagraph (A) to other contributions.

For purposes of the preceding sentence, any additional elective deferral made under paragraph (2) shall be treated as an employer contribution required by reason of the employee's rights under such chapter 43.

"(2) REEMPLOYMENT RIGHTS WITH RESPECT TO ELECTIVE DEFERRALS.—

"(A) IN GENERAL.—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, such employer shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals if such employer—

"(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B)) during the period (not longer than 5 years) which begins on the date of the reemployment and has the same length as the period of qualified military service which resulted in such rights, and

"(ii) makes a matching contribution in respect of 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 is the maximum amount of elective deferrals that the individual would have been permitted to make under the plan during his period of qualified military service if he had continued to be employed by the employer during such period and received compensation at the same rate as the individual received from the employer immediately before such qualified military service. 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 to 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)).

"(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—Nothing in 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 with respect to the period of qualified military service of any of the following amounts—

"(i) any forfeiture,

"(ii) any employer contribution which was voluntary, and

"(iii) any employer contribution the total amount of which was determined without reference to the number of, or compensation of, plan participants before being allocated to the accounts of participants.

"(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the repayment of any loan made to an individual for the period while such individual is performing qualified military service, such suspension shall not be taken into account for purposes of section 72(p).

"(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 43, with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan and any eligible deferred compensation plan (as defined in section 457(b)).

"(7) REFERENCES.—Any reference in this subsection to chapter 43 of title 38 of the United States Code shall be treated as a reference to such chapter as in effect on January 1, 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply in cases where the employee is reemployed on or after August 1, 1990, but only if there is enacted a law passed by the 102d Congress which amends chapter 43 of title 38 of the United States Code to expressly provide pension rights for reemployed veterans.

Subtitle B—Corrections Relating to Social Security, Income Security and Human Resources, and Medicare

PART I—SOCIAL SECURITY

SEC. 6201. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(1) CALCULATION OF FEE OF CLAIMANT'S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(2) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(i) by inserting "(A)" after "(b)(1)"; and

(ii) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be taken into account to the extent provided under the rules applicable in cases before the Secretary.".

(B) PROTECTION FROM OFFSETTING SSI BENEFITS.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a-6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(3) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(d) AMENDMENT RELATED TO PROVISIONS IN SECTION 5115 RELATING TO ADVANCE TAX TRANSFERS.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(e) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

PART II—INCOME SECURITY AND HUMAN RESOURCES

SEC. 6211. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

SEC. 6212. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) AMENDMENTS RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking "Section 1631(a)(2)(E)" and inserting "Section 1631(a)(2)(F)"; and

(2) by redesignating the subparagraph (E) as amended thereby as subparagraph (F).

(c) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(d) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(e) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(f) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(g) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(h) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 6213. REDESIGNATION OF CERTAIN PROVISIONS.

(a) IN GENERAL.—Section 1631(e)(6) of the Social Security Act (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1989 to which the amendment relates at the time such provision became law.

SEC. 6214. MODIFICATION TO FEDERAL UNEMPLOYMENT ACCOUNTS.

(a) IN GENERAL.—Paragraph (1) of section 905(b) of the Social Security Act is amended by striking "determined by him" and all that follows through "(d)." and inserting: "determined by the Secretary to be equal to—

"(A) 20 percent of the amount by which transfers during such month to the employment security administration account pursuant to section 901(b)(2) exceed

"(B) payments during such month from the employment security administration account pursuant to section 901 (b)(3) and (d)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the provisions of and amendments made by section 531 of the Unemployment Compensation Amendments of 1992 to which it applies.

PART III—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 6220. REFERENCES TO OBRA-1990; REFERENCES TO SOCIAL SECURITY ACT; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this part, the term "OBRA-1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) REFERENCES TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this part an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this part and the provisions of this part shall take effect as if included in the enactment of OBRA-1990.

Subpart A—Amendments Relating to Part A of the Medicare Program

SEC. 6221. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION (SECTION 4003 OF OBRA-1990).

The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by striking "and includes" and inserting "and (in the case of a subsection (d) hospital) includes".

SEC. 6222. ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(1) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5); and

(2) in subsection (e)(1)(A) (as redesignated by paragraph (1))—

(A) by striking ", (ii)" and inserting "or (ii)",

(B) by striking "or (iii)" and all that follows through "section,", and

(C) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(c) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(1) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated by a State pursuant to paragraph (1) shall be eligible to receive a grant under subsection (a)(2).".

(2) CONFORMING AMENDMENT.—Section 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(d) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(e) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a) and 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services,".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services,"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

SEC. 6223. TREATMENT OF CERTAIN MILITARY FACILITIES.

(a) COVERAGE OF SERVICES PROVIDED IN CERTAIN UNIFORMED SERVICES TREATMENT FACILITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not take any action to recover amounts that were paid by the United States under title XVIII of the Social Security Act to the facilities described in paragraph (2) (or to other individuals or entities with whom such facilities had entered into agreements to provide services under such title) for the services described in paragraph (3).

(2) FACILITIES DESCRIBED.—The facilities described in this paragraph are the hospitals described in section 248c of title 42, United States Code, that are located in Boston, Massachusetts; Baltimore, Maryland; and Seattle, Washington.

(3) SERVICES DESCRIBED.—The services described in this paragraph are services—

(A) that were provided under chapter 55 of title 10, United States Code, during the period beginning October 1, 1986, and ending December 31, 1989, to members or former members of the uniformed services, or their dependents, who were also beneficiaries under title XVIII of the Social Security Act; and

(B) for which payment under title XVIII of such Act would otherwise have been authorized.

(b) STUDY OF JOINT MEDICAL FACILITY.—

(1) STUDY.—The Secretary of Health and Human Services, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, shall conduct a study of the feasibility and desirability of establishing a joint medical facility among the Department of Defense, the Department of Veterans Affairs, and other public and private entities, and shall include in such study an analysis of the need to make changes in the medicare and medicaid programs (including facility certification standards under such programs) in order to facilitate the establishment of such joint medical facility.

(2) REPORT.—Not later than June 1, 1992, the Secretary of Health and Human Services shall submit a report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

SEC. 6224. TECHNICAL CORRECTION RELATING TO NURSING HOME REFORM (SECTION 4008 OF OBRA-1990).

Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)), as amended by section 4008(h)(2)(C) of OBRA-1990, is amended by striking "not later than" before "14 days".

Subpart B—Amendments Relating to Part B of the Medicare Program

SEC. 6231. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA-1990).

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA-1990).—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)), as added by section 4101(b) of OBRA-1990, is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA-1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA-1990).—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating subparagraphs (E) and (F) (as previously redesignated by section 4102(a)(1) of OBRA-1990) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)), as inserted by section 4102(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA-1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA-1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)), as inserted by section 4102(d) of OBRA-1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w-4(a)(2)(D)(iii)), as added by section 4102(g)(2)(B) of OBRA-1990, is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA-1990).—(1) Section 4103(a) of OBRA-1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)), as inserted by section 4103(a)(2) of OBRA-1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA-1990).—(1) Section 4107(c) of OBRA-1990 is amended by inserting "(a)(1)" after "subsection".

(2) Section 4107(a)(2) of OBRA-1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA-1990).—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA-1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA-1990).—Section 4117 of OBRA-1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(g) RECIPROCAL BILLING ARRANGEMENTS (SECTION 4110 OF OBRA-1990).—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)), as inserted by section 4110(a)(2) of OBRA-1990), is amended to read as follows: "(D) payment may

be made to a physician for physicians' services (and services furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician.".

(h) STUDY OF AGGREGATION RULE FOR CLAIMS OF SIMILAR PHYSICIAN SERVICES (SECTION 4113 OF OBRA-1990).—Section 4113 of OBRA-1990 is amended—

(1) by inserting "of the Social Security Act" after "1869(b)(2)"; and

(2) by striking "December 31, 1992" and inserting "December 31, 1993".

(i) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)), as amended by section 4104(a) of OBRA-1990, is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA-1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w-4(f)(2)(C)), as added by section 4105(c)(2) of OBRA-1990, is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA-1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(3) Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)(F)), as amended by section 4106(a)(1) of OBRA-1990, is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge"; and

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(4) Section 1842(b)(4)(F)(ii)(I) (42 U.S.C. 1395u(b)(4)(F)(ii)(I)), as amended by section 4106(a)(1) of OBRA-1990, is amended by striking "respiratory therapist,".

(5) Section 4106(c) of OBRA-1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(6) Section 4114 of OBRA-1990 is amended by striking "patients" the second place it appears.

(7) Section 1848(e)(1)(C) (42 U.S.C. 1395w-4(e)(1)(C)), as added by section 4118(c)(2) of OBRA-1990, is amended by inserting "date of the" after "since the".

(8) Section 4118(f)(1)(D) of OBRA-1990 is amended by striking "is amended".

(9) Section 4118(f)(1)(N)(ii) is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(10) Section 1845(e) (42 U.S.C. 1395w-1(e)), as amended by section 4118(j)(1)(D) of OBRA-1990, is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(11) Section 4118(j)(2) of OBRA-1990 is amended by striking "In section" and inserting "Section".

(12)(A) Section 1848(i)(3) (42 U.S.C. 1395w-4(i)(3)), as added by section 4118(k) of OBRA-1990, is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

SEC. 6232. SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS (SECTION 4151 OF OBRA-1990).

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—(1)(A) Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than July 1, 1993, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1994), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.".

(C) The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA-1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(1) Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period.

(4) Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

SEC. 6233. DURABLE MEDICAL EQUIPMENT (SECTION 4152 OF OBRA-1990).

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)), as added by section 4152(b)(4) of OBRA-1990, is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)), as added by section 4152(e) of OBRA-1990, is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1992, section 1834(a)(11) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or

"(ii) the item is a specified covered item under subparagraph (B).".

(3) Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as added by section 4153(a) of OBRA-1990, is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than January 1, 1993—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 4152(a)(3) of OBRA-1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA-1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)), as inserted by section 4152(c)(2)(D) of OBRA-1990, is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)), as added by section 4152(c)(2)(F) of OBRA-1990, is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA-1990, is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA-1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA-1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834(a) (42 U.S.C. 1395m(a)) is amended—

(i) in subparagraphs (A) and (B) of paragraph (1), by striking "(2) through (7)" each place it appears and inserting "(2) through (5) and (7)";

(ii) in paragraph (7), by striking "(2) through (6)" and inserting "(2) through (5)";

(iii) in paragraph (8), by striking "paragraphs (6) and (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) and inserting "paragraph (7)"; and

(iv) in paragraph (8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

SEC. 6234. OTHER PART B ITEMS AND SERVICES (SECTIONS 4154 THROUGH 4164 OF OBRA-1990).

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) The Omnibus Budget Reconciliation Act of 1989 is amended by striking section 6137.

(2) Section 1135(d) (42 U.S.C. 1320b-5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(A) by striking "1989" and inserting "1989 and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA-1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4155(b)(2) of OBRA-1990, is amended—

(A) by striking "and" before "(N)"; and

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA-1990—

(i) by striking "(M)" and inserting ", and (O)", and

(ii) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(3) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)), as added by section 4155(b)(3) of OBRA-1990, is amended—

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(4) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)), as added by section 4155(b)(3) of OBRA-1990, is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)".

(5) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(6) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)), as amended by section 4155(d) of OBRA-1990, is amended by striking "this Act" and inserting "this title".

(7) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(8) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)), as amended by section 4151(c)(1)(A) of OBRA-1990, are each amended—

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(3) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA-1990).—Section 4154(e)(5) of OBRA-1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA-1990).—Section 4157(a) of OBRA-1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA-1990).—Section 1833(l)(4)(B)(ii)(VII) (42 U.S.C. 1395l(l)(4)(B)(ii)(VII)), as inserted by section 4160(3) of OBRA-1990, is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA-1990).—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)), as added by section 4161(b)(1) of OBRA-1990, is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N); and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than covered osteoporosis drug (as defined in section 1861(kk)))".

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (s)(2)(O), by striking "subsection (jj)" and inserting "subsection (kk)"; and

(ii) in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)), as inserted by section 4164(b)(1) of OBRA–1990, is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

Subpart C—Amendments Relating to Parts A and B

SEC. 6241. PROVISIONS RELATING TO PARTS A AND B (SECTIONS 4201 THROUGH 4207 OF OBRA–1990).

(a) HOME DIALYSIS DEMONSTRATION PROJECT (SECTION 4202 OF OBRA–1990).—Section 4202 of OBRA–1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)"; and

(4) in subsection (f), by striking "AUTHORIZATION OF APPROPRIATIONS.—The Secretary" and inserting "FUNDING.—The Secretary".

(b) EXTENSION OF SECONDARY PAYOR PROVISIONS (SECTION 4203 OF OBRA–1990).—(1) The sentence in section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended—

(A) in subparagraphs (A)(v) and (B)(iv)(II), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(B) in subparagraph (A)(iii), by striking "current calendar year or the preceding calendar year" and inserting "current calendar year and the preceding calendar year"; and

(C) in the matter in subparagraph (C) after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(3) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(4) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(c) HEALTH MAINTENANCE ORGANIZATIONS (SECTION 4204 OF OBRA–1990).—(1) Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than January 1, 1993, the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years beginning with 1994 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In making the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

"(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for whom medicare is the secondary payor under section 1862(b)(1)(A) of the Social Security Act and beneficiaries for whom medicare is the primary payor.

"(2) Not later than March 1, 1993, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

"(3) Not later than May 1, 1993, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

"(4) Taking into account the recommendations in the report made pursuant to paragraph (3), not later than August 31, 1993, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1994.".

(2) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(4) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(5) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)), as added by section 4204(e)(1)(B) of OBRA–1990, is amended by striking the comma after "contributed to".

(6) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(7) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(8) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)), as added by section 4204(g)(1) of OBRA–1990, is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(d) PEER REVIEW ORGANIZATIONS (SECTION 4205 OF OBRA–1990).—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)), as inserted by section 4205(a)(1)(B) of OBRA–1990, is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) (42 U.S.C. 1320c–3(a)(9)(B)), as added by section 4205(d)(1)(A)(ii) of OBRA–1990, is amended by striking "this subsection" and inserting "section 1156(a)".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) (as added by section 4205(e)(1) of OBRA–1990) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(e) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to

section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act.

(f) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s).

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)), as added by section 4206(a)(2) of OBRA-1990, is amended by striking "1833(r)" and inserting "1833(s)".

(3) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended by moving subparagraph (P) two ems to the left.

(4) Section 1881(b)(1)(C) (42 U.S.C. 1395rr(b)(1)(C)), as inserted by section 4201(d)(2) of OBRA-1990, is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(O)".

(5) Section 4201(d)(2) of OBRA-1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(6) The section following section 4206 of OBRA-1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subsection is referred to as section 4207 of OBRA-1990.

(7) Section 4207(a)(1) of OBRA-1990 is amended by adding closing quotation marks and a period after "such review.".

(8) Section 4207(a)(4) of OBRA-1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(9) Section 4207(b)(1) of OBRA-1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(10) Section 1877 (42 U.S.C. 1395nn) is amended—

(A) in the fourth sentence of subsection (f)—

(i) by striking "provided" and inserting "furnished", and

(ii) by striking "provides" and inserting "furnish".

(B) in the fifth sentence of subsection (f)—

(i) by striking "providing" each place it appears and inserting "furnishing",

(ii) by striking "with respect to the providers" and inserting "with respect to the entities", and

(iii) by striking "diagnostic imaging services of any type" and inserting "magnetic resonance imaging, computerized axial topography scans, and ultrasound services";

(C) in subsection (h)(1)—

(i) by striking "; REMUNERATION.—(A)" and inserting ".—",

(ii) in subparagraph (A), by striking "any remuneration" and all that follows and inserting "any payment (whether directly or indirectly, overtly or covertly, in cash or in kind) made by an entity to a physician (or immediate family member).", and

(iii) by striking subparagraph (B); and

(D) in subsection (a)(2)(B), by striking "subsection (h)(1)(A)" and inserting "subsection (h)(1)".

(11) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA-1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(12) Section 4207(b)(4)(B)(iii)(III) of OBRA-1990 is amended by striking the period at the end and inserting a semicolon.

(13) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA-1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(14) Section 4207(c)(2) of OBRA-1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(15) Section 4207(d) of OBRA-1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(16) Section 4207(j)(2) of OBRA-1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(17) Section 4207(j) of OBRA-1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subpart D—Medicare Supplemental Insurance Policies

SEC. 6251. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SECTIONS 4351 THROUGH 4361 OF OBRA-1990).

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES (SECTION 4351 OF OBRA-1990).—(1) Section 4351 of OBRA-1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)), as added by section 4351 of OBRA-1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).'; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(3) The Secretary of Health and Human Services shall publish in the Federal Register a list described in section 1882(p)(10) of the Social Security Act by not later than December 31, 1992.

(4)(A) For purposes of section 1882 of the Social Security Act (hereafter in this paragraph referred to as the "Act"), when the National Association of Insurance Commissioners (hereafter in this paragraph referred to as the "Association") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to delete from section 15C the exception which begins with "unless", such modification shall be considered to be part of such Regulation.

(B) If subsection (p)(1)(A) of section 1882 of the Act is applicable, until the Association makes the modification described in subparagraph (A), such section shall be applied as if such exception had been deleted. Any 1991 Federal Regulation adopted under such section shall not include such exception.

(C) If the Secretary of Health and Human Services, in consultation with the Association, identifies a State as requiring changes to laws or regulations in order to conform such State's regulatory program to the modification described in subparagraph (A), such State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Act due solely to failure to make such modification until the close of the first regular legislative session that begins after the date of the enactment of this Act.

(b) GUARANTEED RENEWABILITY (SECTION 4352 OF OBRA-1990).—Section 1882(q) (42 U.S.C. 1395ss(q)), as added by section 4352 of OBRA-1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS (SECTION 4353 OF OBRA-1990).—(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)), as added by section 4353(a)(2)(B) of OBRA-1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) added by section 4353(c)(5) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION (SECTION 4354 OF OBRA-1990).—(1) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(A) in subparagraph (A)—

(i) by striking "(A)" and inserting "(A)(i)";

(ii) by inserting ", other than a medicare supplemental policy or a policy described in clause (ii)," after "issue a health insurance policy";

(iii) by inserting "substantially" after "such policy"; and

(iv) by striking the last two sentences and adding at the end the following new clause:

"(ii) This subparagraph shall not apply to a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A of this title or enrolled under part B of this title with knowledge that such policy duplicates health benefits to which such individual is otherwise entitled under another medicare supplemental policy or under this title or title XIX. Whoever violates this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a person other than the issuer of the policy) for each such prohibited act. A seller (who is not the issuer of a medicare supplemental policy) shall not be considered to have violated this subparagraph if the policy is sold in compliance with subparagraph (C) and the statement under subparagraph (C) indicates on its face that the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled. This subparagraph shall not apply to a seller until such date as the Secretary publishes a list of the standardized benefit packages that may be offered consistent with subsection (p).".

(2) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)), as redesignated by paragraph (1) and as amended by section 4354(a)(2) of OBRA-90, is amended—

(A) in clause (i)(I), by striking "clause (II)" and inserting "clause (ii)",

(B) in clause (ii)(II), by striking "65 years of age or older",

(C) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3)).".

(3) Section 1882(d)(3)(D) (42 U.S.C. 1395ss(d)(3)(D)), as redesignated by paragraph (1), is amended by striking "the selling" and inserting "the sale or issuance".

(4) Subparagraphs (A) and (B) of section 1882(q)(5) (42 U.S.C. 1395ss(q)(5)), as added by section 4354(b) of OBRA-1990, are each amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS (SECTION 4355 OF OBRA-1990).—(1) Section 1882(r) (42 U.S.C. 1395ss(r)), as added by section 4355(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under the policies after such date.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue. In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until January 1, 1994.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) in paragraph (2)(C), by striking "policy year" and inserting "calendar year";

(J) in paragraph (4), by striking "disllowance", "loss-ratios" each place it appears, and "loss-ratio", and inserting "disallowance", "loss ratios", and "loss ratio", respectively;

(K) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(L) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended—

(A) by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA-1990 immediately after the subparagraph (F) added by section 4353(c)(3) of such Act; and

(B) in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA-1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(4)(A) For purposes of section 1882 of the Social Security Act (hereafter referred to in this paragraph as the "Act"), when the National Association of Insurance Commissioners (hereafter referred to in this paragraph as the "Association") modifies its 1991 Model Regulation (adopted in July 1991) to apply (in the manner provided in section 1882(r) of the Act, as amended by this subsection) the loss ratio and premium refund provisions of such Regulation to medicare supplemental policies issued prior to the date specified in section 1882(p)(1)(C) of the Act and renewed after such date, such modification shall be considered part of such Regulation.

(B) If subsection (p)(1)(A) of section 1882 of the Act is applicable, until the Association makes the modification described in subparagraph (A), such section shall be applied (as of the date specified in paragraph (5)) as if the loss ratio and premium refund provisions in the 1991 NAIC Model Regulation were applicable (in the manner provided in subsection (r) of such section, as amended by this subsection) to medicare supplemental policies issued prior to the date specified in subsection (p)(1)(C) of such section and renewed after such date.

(C) If the Secretary of Health and Human Services, in consultation with the Association, identifies a State as requiring changes to laws or regulations in order to conform such State's regulatory program to the modifications described in subparagraph (A), such State regulatory program shall not be considered out of compliance with the requirements of section 1882 of the Act due solely to failure to make such required changes until the close of the first regular legislative session that begins after the date of enactment of this Act.

(5) The provisions of this subsection shall be effective January 1, 1993, for medicare supplemental policies issued prior to the date specified in section 1882(p)(1)(C) of the Social Security Act and renewed after such date.

(f) TREATMENT OF HMO'S (SECTION 4356 OF OBRA-1990).—(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)), as amended by section 4356(a) of OBRA-1990, is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1993, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA-1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) PRE-EXISTING CONDITION LIMITATIONS (SECTION 4357 OF OBRA-1990).—Section 1882(s) (42 U.S.C. 1395ss(s)), as added by section 4357(a)(2) of OBRA-1990, is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or", and

(2) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA-1990).—(1) Section 1882(t) (42 U.S.C. 1395ss(t)), as added by section 4358(a) of OBRA-1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)), as amended by section 4358(b)(3) of OBRA-1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA-1990).—Section 4360 of OBRA-1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide", and

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA-1990).—(1) Section 1804 (42 U.S.C. 1395b-2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

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

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 (42 U.S.C. 1395zz), as inserted by section 4361(a) of OBRA-1990, is repealed.

Subtitle C—Tariff and Customs

SEC. 6301. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF GDR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking "German Democratic Republic".

(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.20 is amended by striking "of a weight exceeding 300 g/m²".

(3) GLOVES.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text "Other:" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) AGGLOMERATE STONE FLOOR AND WALL TILES.—The article description for subheading 6810.19.12 is amended to read as follows: "Of stone agglomerated with binders other than cement".

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.30.43 is amended by striking "2921.51.50" and inserting "2921.59.50".

(6) MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS.—The article description for heading 9902.84.79 is amended by striking "8479.89.90" and inserting "8462.49.00, 8479.89.90 or 9031.80.00".

(7) COPYING MACHINES AND PARTS.—The article description for heading 9902.90.90 is amended by inserting "or 8473.40.40" after "8472.90.80".

(b) STAGED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 6302. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking "and" at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 6303. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) in subparagraph (B), by striking "such date of enactment" and inserting "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 6304. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

SEC. 6305. TECHNICAL AMENDMENTS REGARDING CERTAIN BENEFICIARY COUNTRIES.

(a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(b) ANDEAN TRADE PREFERENCE ACT.—Section 204(c)(1) of the Andean Preference Act (19 U.S.C. 3203(c)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, and

(2) articles entered after December 31, 1991, and before such 15th day, which are not liquidated before such 15th day.

SEC. 6306. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking "centralized hub facility or" in clause (i); and

(2) in clause (ii)—

(A) by striking "facility—" and inserting "facility or centralized hub facility—",

(B) by striking "customs inspectional" in subclause (I), and

(C) by striking "at the facility" in subclause (I) and inserting "for the facility".

(b) DEFINITIONS.—Section 13031(b)(9)(B) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58C(b)(9)(B)) is amended by striking "paragraph:" and all that follows through "The term" in clause (ii) and inserting "paragraph, the term".

TITLE VII—INCOME SECURITY AND RELATED PROGRAMS

SEC. 7000. AMENDMENT OF SOCIAL SECURITY ACT.

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 Social Security Act.

Subtitle A—Miscellaneous Improvements in the Old-Age, Survivors, and Disability Insurance Program

SEC. 7001. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking "(E)" in the matter preceding subclause (I) and inserting "(F)";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) It is the policy of the United States that any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law.

"(ii) The additional purposes described in this clause are the following:

"(I) identifying duplicate names of individuals on master lists used for jury selection purposes, and

"(II) identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

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

SEC. 7002. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) (42 U.S.C. 403(a)(4)) is amended by striking "section 222(b). Whenever" and inserting the following: "section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) (42 U.S.C. 403(h)(1)(A)) is amended by striking "Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1993.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1993, in taxable years ending after such date.

SEC. 7003. COMPARABLE SEVERITY DISABILITY FOR CHILDREN UNDER DISABILITY INSURANCE PROGRAM.

(a) IN GENERAL.—Section 223(d)(1)(A) (42 U.S.C. 423(d)(1)(A)) is amended by inserting before the semicolon the following: "(or, in the case of a child under the age of 18, if such child suffers from any medically determinable physical or mental impairment of comparable severity)".

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

SEC. 7004. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) IN GENERAL.—

(1) UNAUTHORIZED DISCLOSURE.—Section 1106(a) (42 U.S.C. 1306(a)) is amended—

(A) by striking "misdemeanor" and inserting "felony";

(B) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(C) by striking "one year" and inserting "5 years".

(2) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) (42 U.S.C. 1307(b)) is amended—

(A) by inserting "social security account number," after "information as to the";

(B) by striking "misdemeanor" and inserting "felony";

(C) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(D) by striking "one year" and inserting "5 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

Subtitle B—Foster Care; Substance Abuse Prevention and Treatment; and Related Programs

PART I—FOSTER CARE, ADOPTION, AND CHILD WELFARE SERVICES

SEC. 7101. INNOVATIVE CHILD AND FAMILY SERVICES PROGRAMS.

(a) IN GENERAL.—Part B of title IV is amended by adding at the end thereof the following new section:

"INNOVATIVE CHILD AND FAMILY SERVICES

"SEC. 429. (a)(1) For the purpose of enabling States to plan, develop, expand, or operate innovative programs of child and family services in order to preserve and strengthen families and prevent the need for unnecessary placement in foster care, there are authorized to be appropriated for each fiscal year, in addition to amounts otherwise appropriated under this part, such sums as may be necessary to carry out the purposes of this section.

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, the sum of $8,000,000 to carry out the purposes of subsection (c)(1).

"(b)(1) From the sums appropriated therefore, the Secretary shall, subject to the provisions of this section, pay as an entitlement to each State for each quarter an amount equal to 75 percent of the total expenditures during that quarter for the purpose of planning, developing, expanding, or operating an innovative program of child and family services (in accordance with the requirements of this section) to incorporate any of the following services:

"(A) Preplacement preventive services designed to help children at risk of foster care placement remain with their families (including adoptive families), where appropriate.

"(B) Reunification services designed to help children return to the families (including adoptive families) from which they have been removed, where appropriate.

"(C) Follow up services designed to sustain and further strengthen families (including adoptive families) after a child has returned home from foster care placement.

"(D) Where appropriate, services designed to help children be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement.

"(E) Respite care to provide assistance for any foster care family, adoptive family, or any other family that the State agency determines needs such care in order to preserve family stability, with priority to the family of a child with a physical, mental, or emotional condition that requires special assistance (as determined by the Secretary).

"(F) Family support services to strengthen the functioning of a family (including an adoptive or foster care family), including services designed to improve parenting skills.

"(2) The total amount paid to a State under paragraph (1) for a fiscal year may not exceed the sum of—

"(A) the amount to which a State is entitled under paragraph (3) for the fiscal year; and

"(B) any unexpended portion of the amount to which a State was entitled for the preceding fiscal year.

"(3)(A) The amount to which a State is entitled under this paragraph for a fiscal year shall

be determined in the manner specified in section 421(a), except that the total amount to which all States are entitled under this paragraph may not exceed—

"(i) $150,000,000 for fiscal year 1993,

"(ii) $250,000,000 for fiscal year 1994,

"(iii) $300,000,000 for fiscal year 1995,

"(iv) $350,000,000 for fiscal year 1996, and

"(v) $400,000,000 for fiscal year 1997, and each subsequent fiscal year.

"(B) The amount to which a State is entitled under this paragraph for a fiscal year shall remain available for such fiscal year and the succeeding fiscal year.

"(4) Payments to a State under this subsection for any fiscal year shall be made in accordance with the procedures described in section 423(b).

"(5) As a condition of receiving a payment under this section, a State shall provide written assurance (in such form as the Secretary shall prescribe by regulation) that the aggregate amount of funds expended by the State and its political subdivisions from non-Federal resources for the purpose of providing child welfare services (excluding foster care maintenance and adoption assistance payments) shall be maintained at a level of funding that is equal to or exceeds the level of such funding for such services for fiscal year 1991.

"(c)(1)(A) The Secretary shall conduct evaluations of programs under this section according to criteria that the Secretary shall establish.

"(B) In developing the criteria described in subparagraph (A), the Secretary shall consult with—

"(i) individuals who administer programs under this part and part E of this title;

"(ii) private, nonprofit organizations with an interest in child welfare; and

"(iii) other individuals and organizations with recognized expertise in the evaluation of child welfare services programs or other related programs.

"(C) The Secretary may enter into a contract with one or more independent research organizations to carry out a program evaluation under this subsection.

"(2) Funds expended by a State to conduct evaluations of programs of child and family services administered by the State shall be deemed expenditures for which payment may be made under subsection (b)(1). Such evaluations shall be conducted in accordance with requirements that the Secretary shall prescribe by regulation.

"(3) Program evaluations conducted pursuant to paragraph (1) or (2) shall—

"(A) use methodologies to measure outcomes with respect to children and families who participate in the programs under this section that enable comparison with similar outcome measurements of children and families who have not received the services offered by the programs under this section; and

"(B) include an assessment of family functioning.

"(4) In carrying out the program evaluations described in paragraph (1), the Secretary shall ensure that an appropriate portion of such evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(5)(A) The Secretary shall develop procedures to facilitate the coordination of evaluations conducted by the Secretary and by the States.

"(B) Upon request by a State, the Secretary shall provide technical assistance to facilitate the planning and design of program evaluations under this section.

"(6) For fiscal year 1995, and annually thereafter until the programs authorized under this section are completed, the Secretary shall issue a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes—

"(A) information concerning the status of evaluations conducted by the Secretary under this subsection;

"(B) findings from the evaluations described in subparagraph (A);

"(C) information concerning the status of evaluations conducted by States under this subsection; and

"(D) a summary of the findings from the State evaluations described in subparagraph (C).

"(7) The Secretary shall, upon completion of a review of the evaluations conducted under this subsection by the Secretary and by States (but not later than December 1, 1996), submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes recommendations for legislation to improve child and family services provided under this title to strengthen families, to reduce the number of cases in which it is necessary to remove a child from home and place the child in foster care, to promote the reunification of families of children who have been placed in foster care, and to promote planned, permanent living arrangements for children, including adoption, where appropriate.".

(b) STATE PLANS AND REPORTS.—Section 422 (42 U.S.C. 622) is amended by adding at the end the following new subsections:

"(c) Not later than January 1, 1993 (with respect to fiscal year 1993), and not later than the July 1 preceding each fiscal year thereafter, each State with an innovative program of child and family services (as described in section 429(a)) that intends to provide services that qualify for payments under section 429(b) shall submit to the Secretary for approval, as an amendment to the plan described in subsection (a), a detailed description of the services that such State intends to provide during such fiscal year.

"(d) Not later than January 1, 1993, each State with an innovative program of child and family services (as described in section 429(a)) that intends to provide services under such program that qualify for payments under section 429(b), shall submit to the Secretary a report containing a statement of goals that the State expects to achieve during the 5-year period beginning with fiscal year 1993.

"(e) Not later than January 1, 1994, and annually thereafter, each State shall submit to the Secretary a report that summarizes activities carried out with funds made available under this title. Such report shall cover the most recently completed fiscal year, and shall be in such form and contain such information as the Secretary shall require by regulation.".

(c) CONFORMING AMENDMENTS.—Section 423(a) (42 U.S.C. 623(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

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

"(2) For the purposes of this section, the 'amounts expended under the plan' described in paragraph (1) shall not include amounts for which payment is made under section 429(b) for services described in section 429(a).".

SEC. 7102. DEMONSTRATION PROJECTS TO IMPROVE COORDINATION OF SERVICES.

(a) IN GENERAL.—Title IV is amended by inserting after section 474 the following new section:

"DEMONSTRATION PROJECTS FOR THE COORDINATION OF CHILD AND FAMILY SERVICES

"SEC. 474A. (a) In order to improve the coordination of child and family services, the Secretary shall authorize not more than 15 States to conduct demonstration projects, to be carried out in accordance with this section.

"(b) An application submitted by the Governor of a State shall include a description of the measures to be employed to improve the coordination of the services and benefits provided by child and family services programs carried out under the State plan under this part with programs which provide services to families and children including some or all of the following programs and services:

"(1) The program of aid and services for needy families with children carried out under the State plan pursuant to part A.

"(2) The child support and spousal support enforcement program carried out under the State plan pursuant to part D.

"(3) The job opportunities and basic skills training program carried out under the State plan pursuant to section 402(a)(19) and part F.

"(4) The special supplemental food program for woman, infants, and children (the WIC program) authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(5) The maternal and child health block grant program under title V.

"(6) Medical assistance furnished under the State plan approved under title XIX.

"(7) Educational programs that provide services to children or families.

"(8) Drug treatment programs and other substance abuse programs.

"(9) Mental health services programs.

"(10) Juvenile justice programs.

"(11) Programs for developmentally disabled individuals.

"(12) Any additional services for children and families that the State determines necessary to meet the needs of all family members in order to carry out the purposes of this section that are approved by the Secretary.

"(c) A demonstration project conducted under this section may be conducted for a period of not more than 3 years.

"(d)(1) Each State that conducts a demonstration project authorized by the Secretary shall, as a part of such demonstration project, conduct an evaluation of the effectiveness of the demonstration project in improving the coordination and the funding of child and family services.

"(2) Amounts expended by the State for the purposes of conducting an evaluation under this subsection shall be deemed amounts expended pursuant to subparagraph (C) of section 474(a)(3).

"(e) Upon completion of a demonstration project under this section, each State shall submit a report concerning the results of the evaluation described in subsection (d) to the Secretary.

"(f) Each State shall submit to the Secretary at such time as the Secretary may prescribe by regulation—

"(1) a description of administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the coordination of the delivery of the child and family services described in subsection (b); and

"(2) a description of the measures that the State has taken or intends to take to eliminate or reduce impediments described in paragraph (1) that are attributable to administrative policies and laws of the State or a political subdivision of the State.".

(b) PAYMENTS TO STATES FOR DEMONSTRATION PROJECTS.—(1) Section 474(a) (42 U.S.C. 674(a)) is amended—

(A) by striking the period at the end of paragraph (4)(B)(ii) and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(5) if such State is authorized to conduct a demonstration project pursuant to section 474A, 50 percent of so much of such expenditures (not to exceed $750,000 for each quarter during the

period of such demonstration project) to carry out the demonstration project.".

(2) The amendments made by paragraph (1) shall apply to expenditures made after September 30, 1992.

(c) REVIEW OF ADMINISTRATIVE POLICIES AND REGULATIONS.—(1) The Secretary of the Department of Health and Human Services, the Secretary of Agriculture, the Secretary of Education, and the Attorney General of the United States shall review the administrative policies and regulations relating to the funding and delivery of services for families and children (as described in section 474A(b) of the Social Security Act, as added by subsection (a) of this section) of the Department of Health and Human Services, the Department of Agriculture, the Department of Education, and the Department of Justice, respectively, to determine whether changes in such administrative policies and regulations may be made without statutory changes to improve the funding and delivery of such services.

(2) In conducting a review pursuant to paragraph (1), the heads of departments described in paragraph (1) shall consult with appropriate representatives of the governments of States and political subdivisions of States.

(3) Not later than July 1, 1993, the heads of the departments described in paragraph (1) shall collectively (or separately after consultation with the others) issue a report to the Congress that includes—

(A) recommendations for statutory changes, as well as changes in regulations and administrative policies, to improve the coordination of the funding and delivery of child and family services;

(B) a description of the technical assistance that the heads of the departments will make available to the States to improve the coordination of the funding and delivery of child and family services; and

(C) an analysis of the impediments identified pursuant to section 474A(f)(1) of the Social Security Act, as added by subsection (a) of this section, as such impediments relate to Federal policies and laws.

SEC. 7103. FOSTER CARE AND ADOPTION ASSISTANCE.

(a) REQUIREMENTS FOR DOCUMENTATION FOR ADOPTION PLACEMENT PROCEDURES.—Section 475(5) (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(E) with respect to any child who is legally eligible for adoption, a court or administrative body that conducts a case review pursuant to subparagraph (C), shall determine and document—

"(i) the specific measures taken by the State agency responsible for the placement of the child in an adoptive family to make such a placement; or

"(ii) a finding that placement of the child in an adoptive family would be inappropriate.".

(b) DISRUPTED ADOPTIONS.—(1) Section 471(a) (42 U.S.C. 671(a)) is amended—

(A) in paragraph (1), by inserting "paragraph (18) and" before "section 473";

(B) by striking "and" at the end of paragraph (16);

(C) by striking the period at the end of paragraph (17) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(18) provides that, at the option of the State, a child whose adoption has been set aside by a court may, for purposes of sections 472 and 473, during any subsequent period of time during which such child would be eligible for assistance under this part as a child in foster care or an adoptive child (but for the adoption or the disruption of the adoption), be deemed to be eligible for such assistance.".

(2) Section 474 (42 U.S.C. 674) is amended by adding at the end the following new subsection:

"(e) For purposes of subsection (a) of this section, a child with respect to whom a State exercises the option described in paragraph (18) of such subsection (a) shall be deemed an eligible child under sections 472 and 473 of this part.".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to case reviews conducted on or after October 1, 1993.

(2) The amendments made by subsection (b) shall apply to payments under part E of title IV of the Social Security Act for expenditures made after September 1992.

SEC. 7104. ADOPTION EXPENSE DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 221 as section 222 and by inserting after section 221 the following new section:

"SEC. 221. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) REIMBURSEMENTS.—If a taxpayer is reimbursed for any qualified adoption expenses for which a deduction was allowed under subsection (a), the amount of such reimbursement shall be includable in the gross income of the taxpayer in the taxable year in which such reimbursement was received.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 221 (relating to deduction for expenses of adopting a child with special needs).".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 221 and by inserting the following new items:

"Sec. 221. Special needs adoption expenses deduction.

"Sec. 222. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to adoptions occurring in taxable years beginning after December 31, 1992.

SEC. 7105. STUDY OF REASONABLE EFFORTS REQUIREMENT BY ADVISORY COMMITTEE.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this title, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish an Advisory Committee on Foster Care Placement (hereafter in this section referred to as the "Advisory Committee") to study and make recommendations concerning the requirements under section 471(a)(15) of the Social Security Act (42 U.S.C. 671(a)(15)) for each State plan for foster care and adoption assistance.

(b) MEMBERSHIP.—(1) The Advisory Committee shall consist of no fewer than 9 members. In appointing members to the Advisory Committee, the Secretary shall include representatives of the following organizations and agencies:

(A) Private, nonprofit organizations with an interest in child welfare (including such organizations that provide child protective services, foster care services, or adoption services).

(B) Hospitals that treat a significant number of boarder babies (as determined by the Secretary).

(C) Agencies of States and political subdivisions thereof responsible for child protective services, foster care services, or adoption services.

(D) Judicial bodies of States and political subdivisions thereof responsible for adjudicating issues of family law (as defined and determined by the Secretary).

(2) Members of the Advisory Committee who are not full-time Federal employees shall, while engaging in the business of the Advisory Committee (including travel time) be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the daily rate specified at the time of such service under level IV of the Executive Schedule.

(3) While away from their homes or regular places of business and on the business of the Advisory Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(c) REPORT.—Not later than January 1, 1994, the Advisory Committee shall submit a report to the Secretary and to the Congress that includes recommendations for making improvements in the implementation of the requirements under section 471(a)(15).

SEC. 7106. CASE REVIEW SYSTEM REQUIREMENT.

(a) IN GENERAL.—Subparagraph (A) of section 475(5) (42 U.S.C. 675(5)) is amended by inserting "and most appropriate" after "(most family like)".

(b) CITIZEN VOLUNTEER INPUT.—Section 475(5) (42 U.S.C. 675(5)), as amended by section 7103, is further amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(F) to the extent determined appropriate by the State, citizen volunteers may participate in making recommendations at either the court or administrative reviews described in subparagraph (B) or at the dispositional hearings described in subparagraph (C).".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect with respect to case reviews conducted on or after October 1, 1992.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 7107. DEMONSTRATION PROJECT TO FACILITATE THE REUNIFICATION OF A CHILD WITH HIS OR HER FAMILY.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with not more than 6 States with an approved plan under section 402 of the Social Security Act (42 U.S.C. 602) (hereafter in this section referred to as the "State plan") to conduct demonstration projects under this section.

(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section, and shall approve up to 6 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(3) Demonstration projects under this section shall meet such conditions and requirements as the Secretary shall prescribe by regulation. No such project shall be conducted for a period of more than 3 years, and no such project may be conducted after January 1, 1997.

(b) EFFECT OF ACCELERATED AFDC ELIGIBILITY ON FAMILY REUNIFICATION.—For each State conducting a demonstration project under this section, notwithstanding any provision of title IV of the Social Security Act, in order to test the effect on facilitating the reunification of families with children for whom out-of-home placement was determined to be necessary, the Secretary shall establish rules under which the State may deem the family of any such child (who would otherwise be considered a dependent child, as defined in section 406(a) of the Social Security Act, but for the placement of the child outside of the home of the family) to be eligible to receive aid under the State plan (including aid that the State may elect to provide for meeting any special needs) for the month immediately preceding the month during which such child is reunited with the family.

(c) DEMONSTRATION PROJECT EVALUATIONS.—Each State that conducts a demonstration project under this section, shall, after such project has been carried out for one year and again when such project is completed, submit to the Secretary a detailed evaluation of the project and of the contribution of the project to the achievement of the purpose of this section.

(d) STATUTORY CONSTRUCTION.—Title IV of the Social Security Act and the regulations promulgated under such title shall apply to demonstration projects conducted under this section to the extent such title is not inconsistent with the purposes of the demonstration projects.

SEC. 7108. DATA COLLECTION SYSTEMS.

(a) AUTOMATED DATA COLLECTION SYSTEMS.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (E); and

(3) by inserting after subparagraph (B) the following new subparagraphs:

"(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of such statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components for such systems), but only if such systems—

"(i) meet the requirements for data collection systems provided in regulations issued pursuant to 479(b)(2);

"(ii) have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating the verification of the eligibility of foster children); and

"(iii) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under the State plan approved under part B or the State plan approved under this part,

"(D) 50 percent of so much of such expenditures as are for the operation of a data collection and information system for the purposes of administering programs under the State plan under this part, and".

(b) OPERATING COSTS.—Section 425(a) (42 U.S.C. 625(a)) is amended by adding at the end the following new paragraph:

"(3) Funds expended by a State for any calendar quarter with respect to the operation of a data collection and information system described in section 474(a)(3)(C) for the purposes of administering programs under this part, shall be deemed to have been expended for child welfare services.".

(c) CONFORMING AMENDMENT.—Section 474A(d)(2), as added by section 7102 of this subtitle, is amended by striking "subparagraph (C)" and inserting "subparagraph (E)".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to expenditures made—

(1) after January 1, 1993; and

(2) with respect to section 474(a)(3)(C) of the Social Security Act, as added by such subsection, before October 1, 1995.

SEC. 7109. INDEPENDENT LIVING.

(a) ACCUMULATION OF ASSETS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) inserting after subsection (h) the following new subsection:

"(i) Notwithstanding any other provision of this title and of title XIX, with respect to a child who is included in a program established under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for the purposes of determination of eligibility for programs under this title or title XIX may be disregarded for the purpose of allowing such child to establish a household. Such amount may not exceed an amount determined by the State agency responsible for the administration of the program as reasonable for the purpose of establishing a household.".

(b) INITIATIVE PAYMENTS MADE PERMANENT.—Section 477 (42 U.S.C. 677) is amended—

(1) by striking the last sentence in subsection (a)(1),

(2) by striking "any of the fiscal years 1988 through 1992" in subsection (c) and inserting "any subsequent fiscal year",

(3) by striking "for each of the fiscal years 1987 through 1992" in subsection (e)(1)(A) and inserting "for each fiscal year",

(4) by striking "fiscal years 1991 and 1992" in subsection (e)(1)(B) and inserting "fiscal year 1991 and any subsequent fiscal year", and

(5) by striking "for fiscal year 1992" in subsection (e)(1)(C)(ii)(II) and inserting "for fiscal year 1992 and any subsequent fiscal year".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1992.

SEC. 7110. TRAINING ACTIVITIES.

(a) CHILD WELFARE TRAINEESHIPS.—(1) Title IV is amended by inserting after section 426 the following new section:

"CHILD WELFARE TRAINEESHIPS

"SEC. 426A. (a) The Secretary shall approve an application for a grant to a public or nonprofit institution of higher learning to provide traineeships with stipends under section 426(a)(1)(C), only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (hereafter in this section referred to as a 'recipient') shall enter into an agreement with the institution of higher learning under which the recipient shall agree—

"(A) to participate in onsite training at a public or private child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship in a public or private nonprofit child welfare agency in any State after completing the postsecondary education for which the traineeship was awarded (within such period of time as is determined by the Secretary by regulation);

"(C) to provide the institution of higher learning and the Secretary with evidence of compliance with subparagraphs (A) and (B); and

"(D) in the event that the conditions of subparagraph (A) or (B) are not complied with (except as provided in the exceptions to repayment provisions described in subsection (b)), to repay to the Secretary all or part of the amount of the stipend, plus interest, and if applicable, reasonable collection fees (in compliance with regulations that the Secretary shall promulgate);

"(2) provides that an agreement entered into with a recipient shall fully disclose the terms and conditions under which the traineeship with stipend is granted; and

"(3) provides assurances that the institution of higher learning shall—

"(A) provide appropriate support and supervision of recipients;

"(B) enter into agreements with child welfare agencies for the onsite training of recipients;

"(C) develop and implement a curriculum in the field of child welfare services that—

"(i) incorporates the most recent information concerning best practices for the delivery of child welfare services; and

"(ii) incorporates information relating to clause (i) supplied to the institution through consultation with child welfare agencies;

"(D) permit a student who is employed in the field of child welfare services (at the time such student applies for a traineeship) to apply for a traineeship with a stipend if such traineeship furthers the student's progress towards the completion of degree requirements; and

"(E) develop and implement a system that tracks for a period of 3 years, beginning on the date of completion of any student of a child welfare services program of study, the employment record of such student in the field of child welfare services (for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in such field).

"(b) A recipient shall not be considered in violation of the agreement entered into pursuant to subsection (a)(1) during any period in which the recipient satisfies repayment exceptions that may be prescribed by the Secretary by regulation.".

(2) Subparagraph (C) of section 426(a)(1) (42 U.S.C. 626(a)(1)) is amended by inserting "described in section 426A" after "including traineeships".

(3) The amendments made by this section shall apply to grants awarded on or after January 1, 1993.

(b) TRAINING FOR EMPLOYMENT IN CHILD WELFARE AGENCIES.—In order to improve the capacity of State and local child welfare agencies to administer the programs authorized under parts B and E of title IV of the Social Security Act and to provide services to families and children, the Secretary of Health and Human Services shall not later than April 1, 1993—

(1) publish final regulations establishing detailed guidelines to assist States in using Federal matching funds authorized under section 474(a)(3) for the purpose of providing training for individuals who are employed or preparing for employment by such agencies; and

(2) develop and publish a model staff recruitment, training, and staff retention program for use by such agencies.

(c) EXTENSION OF FUNDING FOR TRAINING OF ADOPTIVE AND FOSTER PARENTS AND STAFF MEMBERS.—Paragraph (3) of section 8006(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1992" and inserting "1995".

SEC. 7111. HEALTH CARE PLANS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

(1) in clause (i) by striking "and addresses" and inserting ", addresses, and telephone numbers",

(2) in clause (vii) by striking "and", and

(3) by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

"(viii) a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to case plans established or reviewed on or after January 1, 1993.

SEC. 7112. CHILD WELFARE DEMONSTRATION PROJECTS.

Part E of title IV (42 U.S.C. 470 et seq.) is amended by adding at the end the following new section:

"SEC. 480. DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—In order to grant States the flexibility and resources necessary to develop innovative policies and appropriate service networks to preserve and strengthen families with children at risk of needing placement outside their home, to reunite children with their families as promptly as possible if an out-of-home placement is found to be necessary, and to place children in adoptive homes or other permanent arrangements, including guardianships and placements with relatives, in a timely fashion if reunification with their families is impossible or is not in the best interest of any such child, and to provide for the evaluation of innovative State programs and the assessment of the impact of such programs on children and families, the Secretary may authorize not more than 10 States to conduct demonstration projects, which may be carried out throughout the State or in limited areas of the State, in accordance with this section.

"(b) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section.

"(c) CONTENTS OF APPLICATIONS.—

"(1) GENERAL RULES.—Each application by a State to conduct a demonstration project under this section shall—

"(A) propose a project designed to—

"(i) provide, in accordance with paragraph (2), preventive services and assistance to families which have problems that may lead to the removal of a child from the family;

"(ii) promote, in accordance with paragraph (3), the treatment of family problems so as to achieve the reunification of children with their families as promptly as possible after the time it becomes necessary to remove the child from the family;

"(iii) facilitate, in accordance with paragraph (4), the timely and permanent placement of children who are in foster care or who have been abandoned at or shortly after birth;

"(iv) develop, in accordance with paragraph (5), community-based family support services that are provided by trained individuals who live in the community;

"(v) provide adult mentoring services by adult volunteers to low-income or at-risk children or young adults who are in need of additional, on-going contact with adult role models; or

"(vi) address, in accordance with paragraph (6), any combination of child welfare services issues;

"(B) specify the area or areas of the State in which the project is to be conducted;

"(C) contain a commitment by the State—

"(i) to carry out the project during a period of not less than 2 and not more than 5 consecutive fiscal years beginning with fiscal year 1994; or

"(ii) if the State will not be able to properly plan the project before the beginning of fiscal year 1995, to plan the project during fiscal year 1995 and carry out the project during a period of not less than 4 consecutive fiscal years beginning with fiscal year 1996;

"(D) specify the provisions of part B and this part which, but for subsection (g)(1), would prevent the State from conducting the demonstration project;

"(E) identify who will receive services under the project;

"(F) provide assurances that payments to foster families will be sufficient to ensure an adequate number of foster parents; and

"(G) contain such other information as the Secretary may require by regulation.

"(2) PROJECTS TO PREVENT FAMILY DISSOLUTION.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(i) shall outline the services and procedures the State will offer to prevent family dissolution whenever possible. In addition, each such application by a State shall include the following:

"(A) CASE PLANS.—A commitment by the State to provide each child with a case plan, developed to the extent feasible, in consultation with family members.

"(B) MEASURES TO ASSIST FAMILIES IN ADDRESSING PROBLEMS THAT MAY LEAD TO REMOVAL FROM THE HOME.—A description of the measures to be employed by the State to ensure that families are assisted in addressing the problems that may result in the removal of the child from the home.

"(C) MEASURES TO KEEP PARENTS REQUIRING DRUG OR ALCOHOL TREATMENT WITH THEIR CHILDREN.—A description of the measures to be employed by the State to keep parents and their young children together, where appropriate, while the parent participates in drug or alcohol treatment.

"(D) DRUG AND ALCOHOL TREATMENT MEASURES.—A description of the measures to be employed by the State to ensure that drug and alcohol treatment programs are made available to parents who are substance abusers.

"(E) MEASURES TO COORDINATE FAMILY WELFARE FUNDING AND SERVICES.—A description of the measures to be employed by the State to coordinate the funding of, and the services and benefits provided by, programs which provide services to families with children at risk of being placed in the care of a child welfare, mental health, or juvenile justice agency, including the following programs:

"(i) The State's child welfare services program carried out under the State plan approved under part B.

"(ii) The maternal and child health block grant program under title V.

"(iii) The job opportunities and basic skills training program carried out pursuant to section 402(a)(19) and part F.

"(iv) Medical assistance under the State plan approved under title XIX.

"(v) Drug and other substance abuse treatment programs.

"(vi) Mental health services programs.

"(vii) Any new services for children and families that the State deems necessary to meet the needs of all family members in order to carry out the purposes of this section.

"(viii) Such other programs as the State deems appropriate.

"(3) FAMILY REUNIFICATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(ii) shall include the following:

"(A) DESCRIPTION OF PROPOSED PROCEDURES TO ASSIST FAMILY REUNIFICATION.—A description of how the State will—

"(i) design a treatment plan for addressing the family problems that led to removal of the child from the home;

"(ii) to the extent feasible, involve all family members in executing the plan;

"(iii) coordinate the programs and resources necessary to address the problem that led to removal of the child from the home;

"(iv) reunify the child with the family as soon as possible (consistent with the best interests of the child); and

"(v) implement improvements in laws and procedures so as to ensure timely hearings and decisions.

"(B) REASONS WHY PROPOSED PROCEDURES WOULD RESULT IN EARLIER FAMILY REUNIFICATION.—A discussion of why the particular procedures proposed in the application are likely to result in earlier or more successful family reunification than is achieved under the present policies and procedures of the State.

"(4) PERMANENT PLACEMENT PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iii) shall describe how the State will improve its laws and administrative procedures so as to provide, where appropriate, more expeditious, permanent placement of children who are in foster care, are boarder babies, were abandoned at or shortly after birth, have parents addicted to drugs, or were abused.

"(5) FAMILY SUPPORT DEMONSTRATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iv) shall include a description of—

"(A) how the State will conduct innovative programs which train individuals who live in a community to provide family support services to other families in the community with children at risk of being placed in foster care, using services which are based on a self-help model; and

"(B) how such programs will be coordinated with other child welfare and family support services available in the area.

"(6) PROJECTS PROVIDING ADULT MENTORING.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(v) shall include a description of—

"(A) how the State will support the provision by private, nonprofit, community-based organizations of one or more projects which provide adult mentoring services through adult volunteers for low-income or at-risk children or young adults, who can benefit from the guidance, encouragement, and experience of such volunteers through frequent and regular contact with such volunteers;

"(B) the length of time, not to exceed 5 years, for which funds will be required for the provision of adult mentoring services; and

"(C) how such projects will be coordinated with other programs which provide educational services, job counseling and training services, social services, or a combination of such services for low-income or at-risk children or young adults, if such coordination is appropriate.

Funds shall be available beyond the first year of a project which provides adult mentoring services only upon successful provision of such services in the previous year.

"(7) PROJECTS ADDRESSING OTHER CHILD WELFARE ISSUES.—Each application by a State to

conduct a demonstration project under this section of the type described in paragraph (1)(A)(vi) shall describe a project designed to test an innovative approach to any number of significant child welfare services issues, which may include—

"(A) avoiding out-of-home placements;

"(B) achieving, where appropriate, speedy reunification of families from which it has been necessary to remove a child;

"(C) reducing the time it takes to permanently place children who have been removed from their families when such placement is appropriate;

"(D) where appropriate, permitting children to remain with, or be quickly reunited with, their parents while their parents receive treatment for substance abuse; and

"(E) identifying risk factors which would allow child welfare agencies to identify and offer assistance to families that may need protective services.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Within 12 months after the date of the enactment of this section—

"(A) the Secretary shall transmit to each State a detailed explanation of the requirements for participation in the demonstration program established by this section;

"(B) any State interested in conducting a demonstration project under this section shall transmit to the Secretary a letter of intent containing a tentative description of the project; and

"(C) the Secretary shall, subject to paragraph (4), approve not more than 10 applications which meet the applicable requirements of subsection (c).

"(2) DISTRIBUTION OF DEMONSTRATIONS BY STATE POPULATION.—The Secretary, to the extent feasible (in view of the number of approvable applications received), shall provide that in approving applications to conduct demonstration projects under this section that—

"(A) at least 2 and not more than 4 of such applications approved are the applications of States with populations of less than 1.5 million;

"(B) at least 3 and not more than 5 of such applications approved are the applications of States with populations between 1.5 and 7 million; and

"(C) at least 2 and not more than 4 of such applications approved are the applications of States with populations over 7 million.

"(3) DISTRIBUTION OF DEMONSTRATIONS BY REGION.—The Secretary shall provide that in approving applications to conduct demonstration projects under this section that no more than 4 of such applications shall be approved for any one geographical region (as determined by the Secretary) of the country.

"(4) FREEDOM OF STATES TO SELECT AREAS IN WHICH TO CONDUCT DEMONSTRATION.—The Secretary may not, as a condition of approval, require any State to conduct a project under this section in any area of the State not specified in the application therefor.

"(5) CERTIFICATION REQUIRED.—The Secretary shall not approve the application of a State to conduct a demonstration project under this section unless the State certifies that all cost savings resulting from the project will be used to provide child welfare services (within the meaning of section 425(a)(1)) to families.

"(e) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants in accordance with this subsection to each State whose application to conduct a demonstration project under this section is approved by the Secretary, in accordance with a contract prepared by the Secretary (in consultation with the entity or entities selected pursuant to subsection (f)) which specifies the duties of the Secretary, the State, and the entity selected to evaluate the project in achieving the purpose described in subsection (a).

"(2) USE OF GRANTS.—Each State which receives funds under the demonstration program under this section may use such funds to improve the provision of child welfare, foster care, and adoption assistance services in any manner that the State deems appropriate.

"(3) ANNUAL GRANTS.—The Secretary shall make grants to States under paragraph (1) for each fiscal year for which the State is authorized to conduct a demonstration project under this section.

"(4) AMOUNT OF GRANT TO INCLUDE STATE DEMONSTRATION BONUS.—

"(A) CALCULATION OF AMOUNT OF GRANT.—The amount of the grant to be paid under paragraph (1) to a State for a fiscal year shall be an amount equal to the applicable percentage of the sum of—

"(i) the amounts paid to the State for fiscal year 1992 pursuant to sections 423 and 474 (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance);

"(ii) the portion of the amount (if any) by which the amounts appropriated for the fiscal year for payments to States under part B exceed the amounts so appropriated for fiscal year 1992, that would be payable to the State pursuant to such part if the State were not authorized to conduct a demonstration project under this section; and

"(iii) 20 percent of the amount that would have been payable to the State for the immediately preceding fiscal year pursuant to section 423 if the State were not authorized to conduct a demonstration project under this section.

"(B) APPLICABLE PERCENTAGE DEFINED.—

"(i) As used in subparagraph (A), the term 'applicable percentage' means, with respect to a State and a fiscal year, the quotient set forth in clause (ii) as determined by the Secretary after taking into account the estimates made under subsection (f)(2)(B) for the fiscal year with respect to the State.

"(ii) The quotient set forth in this clause is—

"(I) the number of children in the areas in which the State is conducting a demonstration project under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct the project; divided by

"(II) the total number of children in the State with respect to whom the State would have so made such payments for the fiscal year.

"(5) NOTIFICATION TO STATES OF AMOUNT OF GRANTS.—On the 1st day of each fiscal year for which a State is to be made a grant under paragraph (1), the Secretary shall notify the State of the amount of the grant.

"(6) GRANTS TO BE PAID IN EQUAL QUARTERLY INSTALLMENTS.—The Secretary shall pay each grant under paragraph (1) in equal quarterly installments.

"(7) SUPPLEMENTARY PAYMENT.—Within 3 months after the end of each fiscal year with respect to which estimates are made under subsection (f)(2)(B) with respect to a State, the Secretary shall—

"(A) take such estimates into account in determining the amount that would have been payable to the State under section 474 for the fiscal year (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance) if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct a demonstration project under this section; and

"(B) pay the State the amount (if any) by which—

"(i) the amount determined under subparagraph (A) exceeds

"(ii) the amount paid to the State pursuant to section 474 for fiscal year 1992 (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance).

"(f) EVALUATION OF DEMONSTRATION PROJECTS.—

"(1) SELECTION OF EVALUATING ENTITY.—The Secretary shall—

"(A) publish in the Commerce Daily a request for applications from entities that are capable of, and interested in, performing the functions described in paragraph (2) in time for such an entity to participate in the development of contracts under subsection (e)(1); and

"(B) enter into a contract with 1 or more entities to perform such functions.

"(2) FUNCTIONS OF EVALUATING ENTITY.—The functions of the entity or entities selected by the Secretary pursuant to paragraph (1) are—

"(A) to assist the Secretary and the States in devising a detailed plan for the evaluation of demonstration projects conducted under this section;

"(B) within 30 days after the end of each fiscal year, to submit a report to the Secretary, with respect to each such project, that estimates in accordance with the data collection provisions of the contract described in subsection (e)(1)—

"(i) the number of children in the areas in which the State is conducting a demonstration project under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct the project; and

"(ii) the average length of time for which such payments would have been so made with respect to such children;

"(C) prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project, interim reports that evaluate the costs and benefits of the project; and

"(D) prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project, a final report that—

"(i) describes in detail, and documents, the ways in which the project has changed the provision of preventive services, reunification services, adoption assistance services, and other related child welfare and foster care services in the State; and

"(ii) evaluates the costs and benefits of the project.

"(3) EVALUATION REQUIREMENTS.—In evaluating a demonstration project conducted by a State under this section, the entity or entities selected by the Secretary to perform the evaluation shall—

"(A) collect such information as may be necessary to analyze the impact of the project on—

"(i) foster care placement rates;

"(ii) child development and behavior (including academic performance, intellectual development, and health); and

"(iii) family relationships;

"(B) collect such other information on outcomes as the Secretary or the State deems appropriate; and

"(C) use methodologies to measure outcomes with respect to children and families who participate in the projects under this section that enable comparison with similar outcome measurements of children and families who have not

received the services offered by the projects under this section.

In selecting evaluating entities, the Secretary shall ensure that an appropriate portion of the evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(4) DUTY OF STATES TO PROVIDE INFORMATION.—Each State which conducts a demonstration project under this section shall provide the entity or entities selected by the Secretary to evaluate the project with such information with respect to the project and the State programs carried out pursuant to part B and this part as the entity or entities may request under the contract described in subsection (e)(1) entered into by the Secretary, the entity, and the State.

"(5) COSTS OF EVALUATIONS.—The Secretary shall pay the costs incurred during each fiscal year by any State in assisting the evaluation of the demonstration project conducted by the State under this section, to the extent that such costs exceed the amount (estimated by the Secretary) that the State would have expended during the fiscal year to comply with the data reporting requirements of part B and this part if the Secretary had approved the State plans under such parts for the fiscal year and the State were not authorized to conduct the project.

"(g) APPLICABILITY OF PART B AND OTHER SECTIONS OF THIS PART.—During the period in which a State is conducting a demonstration project under this section—

"(1) part B (other than section 427) and the other provisions of this part (other than section 471(a)(1) requiring the State plan to provide for adoption assistance in accordance with section 473, paragraphs (8), (12), (13), (15), and (16) of section 471(a), sections 473, 474 (as it relates to adoption assistance under section 473), and section 479) shall not apply to the State; and

"(2) the State shall, for purposes of section 402(a)(20), be deemed to have in effect a State plan approved under this part.

"(h) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—A State may not carry out a demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under this part.".

SEC. 7113. HOME REBUILDERS DEMONSTRATION PROJECT.

(a) IN GENERAL.—Upon written application of the State of New York (in this section referred to as the "State"), and after the Secretary of Health and Human Services approves the application as meeting the requirements set forth in subsection (b), the State may conduct a demonstration project for the purpose of testing how to enhance the practices and procedures that will expedite the discharge of children from foster care, including the appropriate reunification of children with their families, or the adoption of children by suitable adoptive parents.

(b) PROJECT REQUIREMENTS.—In an application submitted under subsection (a), the State shall provide that the following terms and conditions shall be in effect under the demonstration project:

(1) Services and assistance for reunification of children with their families or adoption may be provided to not more than 2,000 eligible children (exclusive of siblings).

(2) Services and assistance shall be provided to explore and test innovative means to facilitate expedited and appropriate discharge of children from foster care. Such services and assistance may include social services and other forms of assistance designed to ameliorate or remedy personal problems, behaviors, or home conditions.

(3) For the purpose of testing an alternative to the per diem method of provider reimbursement, payments to participating agencies for total costs associated with providing foster care maintenance, services, and assistance on behalf of children will be disbursed pursuant to an approved per capita reimbursement methodology. The per capita payment will be based on the total number of care days the eligible population of children can reasonably be expected to use during the demonstration period.

(4) Eligibility for the demonstration project shall be based on the age of the child, the length of time in foster care, the type of placement, and the permanency planning goal.

(5) If an eligible child has siblings in foster care, siblings may be regarded as eligible project participants for the purpose of estimating total reimbursements in a manner approved by the Secretary of Health and Human Services.

(6) The Federal Government shall pay to the State with respect to children eligible for the demonstration project who are receiving maintenance payments, services, and assistance under the demonstration project the same amounts as would have been payable with respect to such children under parts B and E of title IV of the Social Security Act as if the families were receiving benefits under the State plan in effect during the period of the demonstration and such amounts shall be in lieu of amounts otherwise payable under such parts. The State and the Secretary of Health and Human Services shall agree to a methodology for determining such amounts prior to the beginning of the demonstration project.

(c) WAIVERS.—The Secretary of Health and Human Services may waive compliance with requirements in part E of title IV of the Social Security Act (other than paragraphs 8, 12, 13, 15, and 16 of section 471(a)) which (if applied) would prevent the State from carrying out the demonstration project under this section or prevent the State from effectively achieving the purpose of such a project.

(d) DATE OF COMMENCEMENT.—The demonstration project under this section shall commence not later than December 31, 1993.

(e) DURATION OF DEMONSTRATION.—The demonstration project under this section shall be conducted for a period not to exceed 3 years after the date such project begins.

(f) EVALUATION OF REPORTS.—The State shall collect data and conduct an appropriate evaluation of the demonstration project so as to demonstrate the effectiveness of the project. The evaluation design shall be approved by the Secretary of Health and Human Services. The State shall provide an interim and final evaluation report to the Secretary of Health and Human Services at such times and in such manner as such Secretary determines appropriate.

(g) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—The State may not carry out the demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under part E of title IV of the Social Security Act.

SEC. 7114. CHILD WELFARE SERVICES PROGRAM REVIEWS.

Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note; 103 Stat. 2490) is amended—

(1) by striking "1991" and inserting "1993";

(2) by striking "triennial";

(3) by striking "1992" and inserting "1994"; and

(4) in the section heading—

*(A) by striking "**TRIENNIAL** and*

*(B) by striking "**1991**" and inserting "**1993**".*

SEC. 7115. CHILD WELFARE REVIEW SYSTEM.

(a) RECOMMENDATIONS BY SECRETARY.—

(1) IN GENERAL.—Before May 1, 1993, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate recommendations for legislation to establish a system for—

(A) the review of each State child welfare program for the purposes of—

(i) assessing whether the program is being carried out as required by parts B and E of title IV of the Social Security Act;

(ii) identifying any area in which the program is not being carried out as so required, and the degree to which the program is not being so carried out; and

(iii) identifying the circumstances under which financial penalties shall be imposed in cases of any failure to comply with the requirements of such parts B and E, unless action is taken to correct such failure; and

(B) the provision of technical assistance to any such program.

(2) STATE CHILD WELFARE PROGRAM DEFINED.—As used in this section, the term "child welfare program" means, with respect to a State—

(A) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan for child welfare services developed in accordance with section 422 of the Social Security Act; and

(B) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan approved by the Secretary under part E of such Act.

(b) CONTENT OF RECOMMENDATIONS.—The recommendations required by subsection (a) shall include provisions—

(1) requiring each State child welfare program to be reviewed periodically to determine—

(A) whether and, where appropriate, the degree to which, the program complies with the requirements of the State plans referred to in subsection (a)(2); and

(B) the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments under section 472 of the Social Security Act and for adoption assistance payments under section 473 of such Act are eligible for reimbursement under part E of such Act; and

(2) specifying the criteria that are to be used to assess, with respect to each subparagraph of paragraph (1)—

(A) whether the program has complied with the requirements that apply to the matters described in such subparagraph; and

(B) the degree of such compliance.

(c) DEVELOPMENT OF RECOMMENDATIONS.—The recommendations required by subsection (a) shall be developed in consultation with—

(1) representatives of State agencies administering the State plans referred to in subsection (a)(2);

(2) representatives of private, nonprofit organizations which have an interest in child welfare; and

(3) such other individuals as the Secretary of Health and Human Services may determine.

SEC. 7116. PAYMENT OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

Section 474 of the Social Security Act (42 U.S.C. 674) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary shall pay any State claim for reimbursement for expenditures pursuant to subsection (a) within 90 days of the receipt of such claim unless the Secretary issues a deferral or a disallowance of such claim prior to the expiration of such 90 day period.".

SEC. 7117. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary")

shall appoint a Commission on the Evaluation of Disability in Children (hereafter in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children,

(ii) the study of congenital, genetic, or perinatal disorders in children, or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology,

(ii) education and rehabilitation,

(iii) law, or

(iv) the administration of disability programs, and

(v) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed within 90 days after the date of the enactment of this Act, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chairman of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of any provision of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage such technical assistance from individuals skilled in medical and other aspects of childhood disability as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title XVI, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under title XVI.

(2) The study described in paragraph (1) shall include issues of—

(A) recommendations for revision of the Childhood Listing of Impairments under regulations promulgated under Part B of Appendix 1 to Subpart P, section 404 of title 20, Code of Federal Regulations;

(B) the validity of a presumption of disability for children under age 4 with a genetic, congenital, or perinatal disorder;

(C) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI, might appropriately be met through expansion of Federal health assistance programs (including Medical Assistance under title XIX of this Act); and

(D) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1994, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance in the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 30, 1994.

PART II—PROVISIONS RELATING TO COMPREHENSIVE SUBSTANCE ABUSE PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS WITH CHILDREN

SEC. 7121. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS.

Part B of title IV, as amended by section 7101, is further amended by adding at the end thereof the following new section:

"PAYMENTS TO STATES FOR CERTAIN SERVICES FURNISHED UNDER COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS

"SEC. 430. (a) For the purpose of enabling States to establish comprehensive programs of substance abuse treatment for certain low-income pregnant women, caretaker parents, and their children, there are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.

"(b)(1) Subject to paragraphs (2) and (3), the Secretary shall pay as an entitlement to each State for each quarter, from the sums appropriated therefor, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended by the State for that quarter in planning, developing, and operating a qualified comprehensive substance abuse treatment program, and in providing nonmedical substance abuse treatment support services for qualified individuals under such program.

"(2) The total amount paid to a State under paragraph (1) for a fiscal year may not exceed the sum of—

"(A) the amount to which a State is entitled under paragraph (3) for the fiscal year; and

"(B) any unexpended portion of the amount to which a State was entitled for the preceding fiscal year.

"(3)(A) The amount to which a State is entitled under this paragraph for a fiscal year shall be determined in the manner specified in section 421(a), except that the total amount to which all States are entitled under this paragraph may not exceed $75,000,000 for each of the fiscal years 1993 and 1994, $100,000,000 for each of the fiscal years 1995 and 1996, and $125,000,000 for fiscal year 1997.

"(B) The amount to which a State is entitled under this paragraph for a fiscal year shall remain available for such fiscal year and the succeeding fiscal year.

"(4) Payments to a State under paragraph (1) shall be made in the manner specified in section 423(b).

"(c) As a condition of receiving payment under subsection (b)(1) for a fiscal year, a State shall provide to the Secretary (in such form as the Secretary may prescribe) written assurances that—

"(1) the total amount of funds expended by the State (and any political subdivision thereof) from non-Federal sources for the fiscal year for the purpose of providing nonmedical substance abuse treatment support services for the fiscal year will not be less than the total amount expended for such services from such sources for the immediately preceding fiscal year, and

"(2) an individual who is referred to a program receiving funds authorized under this section by a State agency described in section 422(b)(1) shall be given priority in admission to such program.

"(d) The Secretary shall require each State receiving payments under subsection (b)(1) to report (in such manner and form and at such time as the Secretary determines to be appropriate) such information as may be necessary to permit the Secretary and the Congress to evaluate the operation and effectiveness of comprehensive substance abuse treatment services under this section. Such information shall include the number of individuals participating in such program in the State, any limits imposed by the State on the number of individuals who may enroll in the program, and the number of individuals on any waiting list maintained by the State for participation in the program.

"(e) For purposes of this section:

"(1) The term 'nonmedical substance abuse treatment support services' means—

"(A) home visitation services, nutrition services, child care, and parenting education;

"(B) substance abuse prevention, treatment, and follow-up services (to the extent such services are not furnished under a State plan approved under title XIX); and

"(C) any other services (such as room and board at a residential substance abuse treatment facility for a qualified individual and, where appropriate, the individual's child) that are determined by the State (in accordance with regulations promulgated by the Secretary) to be necessary and appropriate to support the participation of a qualified individual in a qualified comprehensive substance abuse treatment program.

"(2) The term 'qualified individual' means an individual who is—

"(A) a pregnant woman or caretaker parent who is eligible for medical assistance under a State plan approved under title XIX;

"(B) at the option of the State, any other pregnant woman or caretaker parent whose income does not exceed an amount specified by the State; and

"(C) where appropriate, any child of an individual specified in subparagraph (A) or (B).

"(3) The term 'qualified comprehensive substance abuse treatment program' means a program, established by a State, that—

"(A) makes available to qualified individuals (either directly or through arrangements with others) at least the following services:

"(i) substance abuse prevention, treatment, and follow up services (on an outpatient basis and, at the option of the State, in a residential facility);

"(ii) prenatal, gynecological, and pediatric medical services;

"(iii) transportation; and

"(iv) nonmedical substance abuse treatment support services;

"(B) provides for appropriate coordination of substance abuse treatment-related medical services furnished to individuals under the program (under title V or XIX) and nonmedical substance abuse support services for which payment may be made under this section; and

"(C) is administered by an agency (or agencies) designated by the Governor of the State.

"(4) The term 'caretaker parent' means a parent who personally provides (or expects to provide) care for a child.".

PART III—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 7131. DISREGARD OF INCOME AND RESOURCES DESIGNATED FOR EDUCATION, TRAINING, AND EMPLOYABILITY.

(a) DISREGARD AS RESOURCE.—Subparagraph (B) of section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended—

(1) by striking "or" before "(iv)", and

(2) by inserting ", or (v) at the option of the State, in the case of a family receiving aid under the State plan (and a family not receiving such aid but which received such aid in at least 1 of the preceding 4 months or became ineligible for such aid during the preceding 12 months because of excessive earnings), any amount not to exceed $8,000 in a qualified asset account (as defined in section 406(i)) of such family" before "; and".

(b) DISREGARD AS INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 402(a)(8) (42 U.S.C. 602(a)(8)) is amended—

(A) by striking "and" at the end of clause (vii), and

(B) by inserting after clause (viii) the following new clause:

"(ix) shall disregard any interest or income earned on a qualified asset account (as defined in section 406(i)); and".

(2) TREATMENT AS INCOME.—Section 402(a)(7) (42 U.S.C. 602(a)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the semicolon at the end of subparagraph (C) and inserting "; and", and

(C) by adding at the end the following new subparagraph:

"(D) shall treat as income any distributions from a qualified asset account (as defined in section 406(i)(1)) which do not meet the definition of a qualified distribution under section 406(i)(2);".

(c) QUALIFIED ASSET ACCOUNTS.—Section 406 (42 U.S.C. 606) is amended by adding at the end the following:

"(i)(1) The term 'qualified asset account' means a mechanism approved by the State (such as individual retirement accounts, escrow accounts, or savings bonds) that allows savings of a family receiving aid to families with dependent children to be used for qualified distributions.

"(2) The term 'qualified distributions' means distributions for expenses directly related to one or more of the following purposes—

"(A) the attendance of a member of the family at an eligible post-secondary education institution or an eligible training program,

"(B) the improving of the employability (including self-employment) of a member of the family (such as through the purchase of an automobile), or

"(C) the purchase of a home for the family.

"(3) A post-secondary institution's or training program's eligibility under this subsection shall be determined by the State under guidelines established by the Secretary.".

(d) REPORT.—The Secretary of Health and Human Services shall conduct a study of the use of qualified asset accounts established pursuant to the amendments made by this section, and shall report on such study and any recommendations for modifications of such amendments to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than January 1, 1997.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993, with respect to accounts approved on or after such date and before October 1, 1997.

SEC. 7132. DISREGARD OF INCOME AND RESOURCES RELATED TO SELF-EMPLOYMENT.

(a) STATE PLAN REQUIREMENTS.—Section 402(a) (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) at the option of the State, provide that the State agency—

"(A)(i) shall not include as a resource of the family of which a child referred to in paragraph (7)(A) is a member, for purposes of paragraph (7)(B), the first $10,000 of the net worth (assets reduced by liabilities with respect thereto) of all microenterprises (as defined in section 406(j)(1)) owned, in whole or in part, by the child or by a relative or other individual referred to in paragraph (7)(A), for a period not to exceed 2 years; and

"(ii) shall take into consideration as earned income of the family of which the child is a member, only the net profits (as defined in section 406(i)(2)) of such microenterprises; and

"(B) shall ensure that caseworkers are able to properly advise recipients of aid under the State plan of the option of microenterprise as a legitimate route towards self-sufficiency, and that caseworkers encourage recipients of such aid who are interested in starting a microenterprise to participate in a program designed to assist them in such effort.".

(b) DEFINITIONS.—Section 406 (42 U.S.C. 606), as amended by section 7131, is further amended by adding at the end the following:

"(j)(1) The term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(2) The term 'net profits' means, with respect to a microenterprise, the gross receipts of the business, minus—

"(A) payments of principal or interest on a loan to the microenterprise;

"(B) transportation expenses;

"(C) inventory costs;

"(D) expenditures to purchase capital equipment;

"(E) cash retained by the microenterprise for future use by the business;

"(F) taxes paid by reason of the business;

"(G) if the business is covered under a policy of insurance against loss—

"(i) the premiums paid for such insurance; and

"(ii) the losses incurred by the business that are not reimbursed by the insurer solely by reason of the existence of a deductible with respect to the insurance policy;

"(H) the reasonable costs of obtaining 1 motor vehicle necessary for the conduct of the business; and

"(I) the other expenses of the business.".

(c) INCLUSION OF MICROENTERPRISE TRAINING AND ACTIVITIES IN THE JOBS PROGRAM.—

(1) IN GENERAL.—Section 482(d)(1) (42 U.S.C. 682(d)(1)) is amended adding at the end the following:

"(C) The services and activities referred to in subparagraph (A)—

"(i) in the case that at least 3 percent of the adult recipients of aid under the State plan approved under part A (as of the close of the immediately preceding fiscal year) elect to participate in microenterprise activities, shall include programs described in paragraph (4); or

"(ii) in the case that not more than 3 percent of the adult recipients of such aid elect to participate in microenterprise activities, may include programs described in paragraph (4).".

(2) MICROENTERPRISE PROGRAMS.—Section 482(d) (42 U.S.C. 682(d)) is amended by adding at the end the following:

"(4) The programs described in this paragraph are programs of public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to business planning, financing, marketing, and other microenterprise development activities) to owners of microenterprises and persons developing microenterprises; and

"(B) providing general support (such as peer support and self-esteem programs) to owners of microenterprises and persons developing microenterprises.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under part A of title IV of the Social Security Act for calendar quarters beginning on or after October 1, 1992.

SEC. 7133. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking "October 1, 1992" and inserting "the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act".

SEC. 7134. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING.

(a) IN GENERAL.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

"(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—"; and

(2) in each of subparagraphs (A) and (B), by striking ", in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1993 and such payments for succeeding fiscal years.

PART IV—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING (JOBS) PROGRAM

SEC. 7141. FUNDING FOR THE JOBS PROGRAM.

(a) ENHANCED MATCH FOR FISCAL YEARS 1993, 1994, AND 1995.—Section 403(l) (42 U.S.C. 603(l)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Subclause (I) of paragraph (1)(A)(ii) shall be applied by substituting—

"(i) '65 percent' for '50 percent', in fiscal year 1993;

"(ii) '60 percent' for '50 percent', in fiscal year 1994; and

"(iii) '55 percent' for '50 percent', in fiscal year 1995.

"(B) Subclause (II) of paragraph (1)(A)(ii) shall be applied by substituting—

"(i) 'the sum of 15 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1993;

"(ii) 'the sum of 10 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1994; and

"(iii) 'the sum of 5 percent and the greater of 60 percent or the Federal medical assistance percentage' for 'the greater of 60 percent or the Federal medical assistance percentage' in fiscal year 1995.

"(C) This paragraph shall not apply with respect to any State in any fiscal year in which State or local funds expended for the costs of operating a program established under part F in such fiscal year (determined without regard to this paragraph) are not at least at the level expended for the prior fiscal year.".

(b) INCREASE IN FUNDING CAP FOR FISCAL YEARS 1993 AND 1994.—Section 403(k)(3) (42 U.S.C. 603(k)(3)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by striking subparagraphs (C) and (D) and inserting the following:

"(C) $1,000,000,000 in the case of each of the fiscal years 1991 and 1992,

"(D) $1,100,000,000 in the case of fiscal year 1993,

"(E) $1,200,000,000 in the case of fiscal year 1994,".

SEC. 7142. EXPANSION OF COVERAGE FOR INDIAN TRIBES.

(a) IN GENERAL.—Section 482(i)(2)(A) (42 U.S.C. 682(i)(2)(A)) is amended by striking "members of such Indian tribe receiving aid to families with dependent children" and inserting "Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 7143. ASSIGNMENT OF INDIVIDUALS TO WORK SUPPLEMENTATION PROGRAM.

(a) IN GENERAL.—Section 484(c) (42 U.S.C. 684(c)) is amended by striking "section 482(e) or (f)" and inserting "section 482(f)".

(b) ASSIGNMENT IN PRIVATE SECTOR.—Section 482(e) (42 U.S.C. 682(e)) is amended—

(1) by striking subparagraph (C) of paragraph (3) and inserting the following new subparagraph:

"(C) For purposes of this section, a supplemented job is a job provided to an eligible individual by any nonpublic employer for which all or part of the wages are paid by the State or local agency administering the State plan under part A. A State may subsidize under the program any job which such State determines to be appropriate."; and

(2) by striking subparagraph (A) of paragraph (5) and inserting the following new subparagraph:

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide that an eligible individual filling a job position provided by a nonpublic employer shall be given employee status by such employer during the first 13 weeks such individual fills such position.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to assignments made on or after October 1, 1992.

PART V—COMMUNITY WORKS PROGRESS DEMONSTRATIONS.

SEC. 7151. COMMUNITY WORKS PROGRESS DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et. seq.) is amended by adding at the end the following new section:

"COMMUNITY WORKS PROGRESS DEMONSTRATION PROJECTS

"SEC. 1144. (a) ESTABLISHMENT.—The Secretary shall, in consultation with the Secretary of Labor, award grants to public and private nonprofit organizations (hereafter in this section referred to as "organizations" or an "organization") to carry out demonstration projects for community works progress.

"(b) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—A community works progress project conducted under this section shall serve a significant public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and child care.

"(2) ADDITIONAL REQUIREMENTS.—Any organization which conducts a community works progress project under this section shall ensure that the project complies with the nonduplication and nondisplacement requirements set forth in subsections (a) and (b) of section 177 of the National and Community Service Act of 1990 and that the project does not impair any contracts for services or any collective bargaining agreements existing at the time the project commences.

"(3) FAILURE TO MEET REQUIREMENTS.—The Secretary may suspend or terminate payments under this section for a community works progress project if the Secretary determines that an organization conducting such project has materially failed to comply with this section, the application submitted under subsection (e), or any other terms and conditions of a grant under this section agreed to by such organization and the Secretary.

"(c) PARTICIPATION IN PROJECTS.—

"(1) IN GENERAL.—To be eligible to participate in a community works progress project under this section, an individual shall be—

"(A) receiving, eligible to receive, or have exhausted (while participating in such a project), unemployment compensation under an unemployment compensation law of a State or of the United States,

"(B) receiving, eligible to receive, or at risk of becoming eligible to receive, aid to families with dependent children under part A of title IV, or

"(C) a noncustodial parent of a child who is receiving aid to families with dependent children under part A of title IV.

"(2) PARTICIPANTS IN JOBS PROGRAM.—If an individual is receiving aid to families with dependent children under part A of title IV and participating in the job opportunities and basic skills training program under part F of such title, such individual may be assigned by the State agency to participate in a community works progress project if—

"(A) such participation does not conflict with the requirements of such part F, and

"(B) such individual is referred to participate in the community works progress project in accordance with the procedures established under such part F.

"(3) REQUIREMENTS RELATED TO PARTICIPATION.—

"(A) IN GENERAL.—In order to assure that each individual will have time to seek alternative employment or to participate in an alternative employability enhancement activity, no individual may work as a participant in a community works progress project under this section for more than 32 hours per week.

"(B) ADDITIONAL REQUIREMENTS.—

"(i) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION.—Except as provided in subparagraph (A), individuals who are receiving unemployment compensation under an unemployment compensation law of a State or of the United States shall agree to work as participants in a community works progress project on a weekly basis the number of hours determined by dividing—

"(I) the amount of the weekly unemployment compensation received by such individual, by

"(II) the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(ii) INDIVIDUALS RECEIVING AFDC.—In addition to the limitation set forth in subparagraph (A), individuals who are receiving aid to families with dependent children under part A of title IV may not be required to work as participants in a community works progress project on a monthly basis more than the number of hours determined by dividing—

"(I) the amount of monthly assistance the family of the individual is eligible to receive under such part, by

"(II) the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(4) TESTING AND EDUCATION REQUIREMENTS.—

"(A) TESTING.—Except as provided in subparagraph (C), each participant in a community works progress project shall be tested for basic reading and writing competence prior to employment under such project.

"(B) EDUCATION REQUIREMENT.—

"(i) FAILURE TO SATISFACTORILY COMPLETE TEST.—Participants who fail to complete satisfactorily the basic competency test required in subparagraph (A) shall be furnished counseling and instruction.

"(ii) LIMITED-ENGLISH.—Participants with limited-English speaking ability may be furnished such instruction as the organization conducting the project deems appropriate.

"(C) PARTICIPANTS IN JOBS PROGRAM.—Any individual who is a participant in the job opportunities and basic skills training program under part F of title IV shall not be required to be tested under subparagraph (A) if such individual has been tested under such program.

"(d) COMPENSATION FOR PARTICIPANTS.—

"(1) IN GENERAL.—

"(A) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION OR AFDC.—Each participant in a community works progress project who is receiving unemployment compensation under an unemployment compensation law of a State or of the United States or receiving aid to families with dependent children under part A of title IV shall, notwithstanding any other provision of law, be compensated for participation in such project on a monthly basis, an amount equal to 10 percent of the average (as estimated by the organization conducting such project) amount of—

"(i) unemployment compensation under such unemployment compensation law of a State or of the United States, and

"(ii) aid to families with dependent children under such part A,

paid to recipients of such benefits in the area served by such project on a monthly basis. Such amount shall be paid from grant funds awarded to the organization conducting such project and shall be in addition to the benefit received by such participant as unemployment compensation under an unemployment compensation law of a State or of the United States or aid to families with dependent children under part A of title IV.

"(B) INDIVIDUALS NOT RECEIVING UNEMPLOYMENT COMPENSATION OR AFDC.—Each participant in a community works progress project who is not described in subparagraph (A) shall, notwithstanding any other provision of law, be paid for each hour worked as a participant on such project an amount equal to the Federal minimum wage or the applicable State minimum wage, whichever is greater. Such amount shall be paid from grant funds awarded to the organization conducting such project.

"(2) PAYMENTS OF AFDC AND UNEMPLOYMENT COMPENSATION.—Any State agency responsible for making a payment of benefits to a participant in a community works progress project under part A of title IV or under an unemployment compensation law of a State or of the United States may transfer such payment to the organization conducting such project and such payment shall be made by such organization to such participant in conjunction with any payment made under subparagraph (A) of paragraph (1).

"(3) ADDITIONAL WORK HOURS.—

"(A) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION—If an individual who is receiving unemployment compensation under an unemployment compensation law of a State or of the United States accepts an offer to work hours in addition to the number of hours determined under subsection (c)(3)(B)(i), such individual shall be paid for each such additional hour an amount equal to the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(B) INDIVIDUALS RECEIVING AFDC.—If an individual who is receiving aid to families with dependent children under part A of title IV accepts an offer to work hours in addition to the number of hours determined under subsection (c)(3)(B)(ii), such individual shall be paid for each such additional hour an amount equal to the Federal minimum wage or the applicable State minimum wage, whichever is greater.

"(4) ALTERNATIVE COMPENSATION METHODS.—The Secretary may approve any application submitted under subsection (e) which provides for an alternative to the method of compensation for participants in a community works progress project set forth in this section if such alternative method—

"(A) does not reduce the amount received by any participant on an hourly basis below the Federal minimum wage or the applicable State minimum wage, whichever is greater; and

"(B)(i) in the case of an individual receiving unemployment compensation under an unemployment law of a State or of the United States, results in a weekly payment which would be greater than the weekly amount the participant receives as such compensation; or

"(ii) in the case of an individual receiving aid to families with dependent children under part A of title IV, results in a monthly payment which would be greater than the monthly amount the family of the participant receives as such aid.

"(5) TREATMENT OF COMPENSATION OR BENEFITS UNDER OTHER PROGRAMS.—

"(A) HIGHER EDUCATION ACT OF 1965.—In determining any grant, loan, or other form of assistance for an individual under any program under the Higher Education Act of 1965, the Secretary of Education shall not take into consideration the compensation and benefits received by such individual under this subsection for participation in a community works progress project.

"(B) RELATIONSHIP TO OTHER FEDERAL BENEFITS.—Notwithstanding any other provision of law, any compensation or benefits received by an individual under this subsection for participation in a community works progress project shall be excluded from any determination of income for the purposes of determining eligibility for benefits under sections 402, 1612, and 1613 and title XIX.

"(6) SUPPORTIVE SERVICES.—Each participant in a community works progress project conducted under this section shall be eligible to receive, out of grant funds awarded to an organization conducting such project, assistance to meet necessary costs of transportation, child care, and uniforms and other work materials.

"(e) APPLICATIONS.—

"(1) IN GENERAL.—An application for a grant to conduct a community works progress project under this section shall be submitted at such time and in such manner as the Secretary shall require and shall include—

"(A) a description of the type of project to be carried out, including a description of the types and duration of training and work experience to be provided to participants in such project,

"(B) a comprehensive description of the objectives and performance goals for the community works progress project to be conducted,

"(C) a description of a plan for managing and funding the project,

"(D) an assurance that, prior to the placement of a participant under the project, the organization will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project,

"(E) a description of any formal job training or job search arrangements to be made available to the participants, in cooperation with State agencies,

"(F) an assurance that the community works progress project will be coordinated with other Federally assisted education programs, training programs, social service programs, and other appropriate programs,

"(G) an assurance that the community works progress project will participate in cooperative efforts among community-based agencies, local educational agencies, and local government agencies (as defined in paragraphs (3), (11), and (12), respectively, of section 101 of the National and Community Service Act of 1990), businesses, and State agencies, to develop and provide supportive services,

"(H) a description of fiscal control, accounting, audit, and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this section,

"(I) a projection of the amount the organization conducting a community works progress project under this section intends to spend in each fiscal year for such project.

"(2) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications received from organizations desiring to conduct community works progress projects under this section and shall approve 3 applications for projects to be conducted in urban areas and 2 applications for projects to be conducted on a statewide basis. In selecting an organization to conduct a community works progress project under this section, the Secretary shall consider—

"(A) the unemployment rate for the area in which the project will be conducted,

"(B) the proportion of the population receiving public assistance in the area in which the project will be conducted,

"(C) the per capita income for the area in which the project will be conducted,

"(D) the degree of involvement and commitment demonstrated by public officials in the area in which the project will be conducted,

"(E) the likelihood that the project will be successful,

"(F) the contribution that the project is likely to make toward improving the quality of life of residents of the area in which the project will be conducted,

"(G) geographic distribution,

"(H) the extent to which the project will emphasize the development of projects encouraging team approaches to work on real, identifiable projects,

"(I) the extent to which private and community agencies will be involved, and

"(J) such other criteria as the Secretary deems appropriate.

"(3) APPLICATION NOTICE.—The Secretary shall publish a notice regarding applications for grants under this section no later than January 1, 1993.

"(f) COMPLETION OF PROJECTS.—An organization conducting a community works progress project under this section shall complete such project within the 4-year period beginning on the date of the approval of such organization's application.

"(g) EVALUATIONS AND REPORTS.—

"(1) BY THE ORGANIZATIONS.—Each organization conducting a community works progress project under this section shall conduct ongoing evaluations of the effectiveness of such project (including the effectiveness of such project in meeting the goals and objectives described in the application approved by the Secretary) and, for each year in which such project is conducted, shall submit an annual report to the Secretary concerning the results of such evaluations at such time, and in such manner, as the Secretary shall require. The report shall include an analysis of the interaction, if any, of project participants with employees that are not participating in the project. Up to 3 percent of the amount granted to such organization under subsection (h) may be used to conduct evaluations under this paragraph.

"(2) BY THE SECRETARY.—The Secretary shall submit an interim annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives concerning the effectiveness of the community works progress projects conducted under this section for each year in which such a project is conducted and a final report to such committees within 90 days after the completion of the last of the projects. Such report shall analyze the reports received by the Secretary under paragraph (1) from each participating organization.

"(h) PAYMENTS TO ORGANIZATIONS CONDUCTING PROJECTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for each of fiscal years 1994 through 1997, the Secretary shall pay as an entitlement to each organization conducting a community works progress project under this section an amount equal to such organization's expenditures to carry out such project for such fiscal year.

"(2) LIMITATION ON PAYMENTS.—For any fiscal year, the amount any organization is entitled to receive under paragraph (1) shall be limited to an amount equal to the product of—

"(A) the total amount of funds appropriated under subsection (i) for such fiscal year; and

"(B) the amount determined by dividing—

"(i) the amount such organization projects to spend for such project during the fiscal year as set forth in such organization's application under subsection (e)(1), by

"(ii) the total amount projected to be spent during such fiscal year by all organizations conducting community works progress projects under this section as set forth in the applications submitted under such subsection.

"(3) CAPITAL COSTS.—Not more than 25 percent of the amount paid to any organization under paragraph (1) may be used for capital expenditures.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, $100,000,000 for each of fiscal years 1994, 1995, 1996, and 1997. Any amount made available to a project for a fiscal year shall remain available to be expended in the succeeding fiscal year.".

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

PART VI—SUPPLEMENTAL SECURITY INCOME

SEC. 7161. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, SSI BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) ABSENT PERSON GENERALLY DEEMED TO BE LIVING IN THE HOUSEHOLD.—Section 1614(f) of the Social Security Act (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

"(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.".

(b) EXCLUSION FROM SSI INCOME OF HAZARDOUS DUTY PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—Section 1612(b) of such Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking "and" the 2nd place such term appears;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) special pay received pursuant to section 310 of title 37, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 2d month that begins after the date of the enactment of this Act.

SEC. 7162. ELIGIBILITY FOR CHILDREN OF ARMED FORCES PERSONNEL RESIDING OUTSIDE THE UNITED STATES OTHER THAN IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking "the District of Columbia" and all that follows to the period and inserting "and who, for the month before the parent reported for such assignment, received a benefit under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 7163. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3)(A) of the Social Security Act (42 U.S.C. 1382c(a)(3)(A)) is amended by striking "a child" and inserting "an individual".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 7164. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN SSI BENEFITS.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking "and (5)" and inserting "(5), and (6)"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid after the calendar year 1992.

SEC. 7165. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) TREATMENT OF EITC AS EARNED INCOME.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

PART VII—OTHER INCOME SECURITY PROVISIONS

SEC. 7171. MEASUREMENT AND REPORTING OF WELFARE DEPENDENCY.

(a) FINDINGS.—The Congress finds that welfare dependency has reached threatening levels:

(1) In the period since 1960 the average annual caseload of the aid to families with dependent children (AFDC) program under title IV of the Social Security Act has quintupled.

(2) In 1990 there were on average almost twice as many households receiving aid to families with dependent children payments as the number of households and individuals receiving unemployment compensation benefits.

(3) Nearly one-quarter of children born in the period 1967 through 1969 were dependent on welfare (AFDC) before reaching age 18. For minority children this ratio approached three-quarters.

(4) At any given time one-quarter of school children are from single parent families, or households with neither parent. The National Assessment of Educational Progress has documented the educational losses associated with single parent or no parent households.

(5) Only one-quarter of father-absent families receive full child support and over one-half receive none.

(6) The average aid to families with dependent children benefit has declined by more than one-third since 1960.

(7) The burden of welfare dependency is an issue of necessary concern to women, who in overwhelming proportion are the heads of single parent families.

(8) The rate of welfare dependency is rising. However, the statistical basis on which to assess this national issue is wholly inadequate, much as the statistical basis for addressing issues of unemployment was inadequate prior to the Employment Act of 1946, which required the creation of the annual economic report of the President and the development of unemployment rates.

(b) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce welfare dependency to the lowest possible level, and to assist families toward self-sufficiency, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare dependency to improve their education and job skills, to obtain access to necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent; and

(4) it is the purpose of this section to aid in lowering welfare dependency by providing the public with generally accepted measures of welfare dependency so that it can track dependency over time and determine whether progress is being made in reducing welfare dependency and enabling families to be self-sufficient.

(c) DEVELOPMENT OF WELFARE DEPENDENCY INDICATORS, RATES, AND PREDICTORS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary") in consultation with the Secretary of Agriculture shall develop indicators, rates, and predictors of welfare dependency.

(2) DEVELOPMENT.—The Secretary shall—

(A) develop—

(i) indicators and rates related to the level of welfare dependency in the United States; and

(ii) predictors that are correlated with welfare dependency;

(B) assess the data needed to report annually on the indicators, rates, and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

(C) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in subparagraphs (A) and (B), to—

(i) the Committee on Ways and Means of the House of Representatives;

(ii) the Committee on Education and Labor of the House of Representatives;

(iii) the Committee on Agriculture of the House of Representatives;

(iv) the Committee on Energy and Commerce of the House of Representatives;

(v) the Committee on Finance of the Senate;

(vi) the Committee on Labor and Human Resources of the Senate; and

(vii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(3) CONSIDERATIONS.—In developing the indicators, rates, and predictors, the Secretary shall consider the complexity of patterns of welfare dependency and self-sufficiency attainment, and the external factors, including the economy, that affect welfare dependency.

(d) ADVISORY BOARD ON WELFARE DEPENDENCY.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Dependency (referred to in this section as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of indicators, rates, and predictors of welfare dependency, and the identification of data collection needs and existing data collection efforts, described in subsection (c)(2)(B); and

(B) providing advice on the development and presentation of the annual report on welfare dependency indicators, rates, and predictors required under subsection (e).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in subsection (d)(4) have been completed, but in any case prior to the submission of the first report required under subsection (e).

(e) ANNUAL WELFARE DEPENDENCY REPORT.—

(1) PREPARATION.—The Secretary shall prepare an annual report on welfare dependency in the United States. The report shall attempt to identify indicators, rates, and predictors of wel-

fare dependency and trends in dependency, and provide information and analysis on the causes of dependency.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the Supplemental Security Income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each report shall set forth—

(A) for each of the means-tested benefit programs described in paragraph (2)—

(i) current trends in the number and rates of recipients and the characteristics, including age, sex, marital status, presence of children, labor force participation, and disability, of the recipients; and

(ii) total expenditures;

(B) the proportion of the total population receiving each of the programs and patterns of multiple program participation and recipiency duration;

(C)(i) characteristics of each such program, including total expenditures broken down by Federal and State shares, gross income limit, need standards, and maximum potential benefit by State; and

(ii) a description of the interactions among the programs;

(D) in the case of the second, or a subsequent, report, changes in the information described in subparagraphs (A) through (C) from the previous year, and trends in program participation;

(E) annual numerical goals for recipients, and expenditures, within each program and within significant subgroups within the population, for the calendar year in which the report is transmitted and for each of the following 4 calendar years, which goals shall, consistent with other essential national goals, reflect the objectives of—

(i) reducing welfare dependency to the lowest possible level; and

(ii) increasing family self-sufficiency at or above the Federal poverty level to the greatest extent possible;

(F)(i) the programs and policies as the Secretary, in consultation with the Board, determines are necessary to meet the goals for each of the 5 years; and

(ii) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce welfare dependency; and

(G) interim goals for reducing the proportion of children, and families with children, who are recipients of aid to families with dependent children to 10 percent of families with children, adjusted for economic conditions.

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section, and annually thereafter, to the committees specified in subsection (c)(2)(C). The report shall be transmitted during the first 60 days of each regular session of Congress.

SEC. 7172. EXTENSION OF NATIONAL COMMISSION ON CHILDREN.

(a) IN GENERAL.—Section 1139(e)(1)(A) (42 U.S.C. 1320b-9(e)(1)(A)) is amended by striking "March 31, 1991" and inserting "December 31, 1992".

(b) AUTHORITY.—Notwithstanding any other provision of law, the National Commission on Children shall terminate on December 31, 1992. The Commission shall retain the authority provided to such Commission on the date of enactment of section 1139 of the Social Security Act (42 U.S.C. 1320b-9) until December 31, 1992. The Executive Director and staff of such Commission shall have a reasonable period of time, not to extend beyond March 31, 1993, to conduct those activities that have been determined by the Chairman of the Commission to be required to close down the operations of the Commission.

SEC. 7173. SECRETARIAL REPORT ON THE DIFFERENCES IN PROGRAM RULES UNDER THE FOOD STAMP, AID TO FAMILIES WITH DEPENDENT CHILDREN, AND MEDICAID PROGRAMS.

(a) IN GENERAL.—No later than 6 months after the date of the enactment of this section, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly submit to the President and the Congress a report which includes—

(1) the rules which govern the food stamp program operated under the Food Stamp Act of 1977, the program of aid to families with dependent children under part A of title IV of the Social Security Act, and the program of medical assistance under title XIX of the Social Security Act;

(2) how the rules differ across such programs;

(3) which of the rules under such programs require statutory action in order to achieve uniformity with respect to such programs (including specific statutory citations); and

(4) which of the rules could be made uniform without statutory action.

(b) RULES TO BE EVALUATED.—

(1) IN GENERAL.—The rules to be evaluated in the report required by subsection (a) shall include all rules related to administrative procedures (described in paragraph (2) of this subsection), definitions of countable income, and definitions of income disregards and exemptions. Income eligibility levels shall be excluded from such report.

(2) ADMINISTRATIVE PROCEDURES DEFINED.—The administrative procedures to be evaluated in the report required by subsection (a) include procedures governing—

(A) quality control error measurements;

(B) the effective dates by which State and local agencies must implement rule changes;

(C) verification of applicant or recipient circumstances;

(D) establishment of claims for overpayment;

(E) recipient reporting requirements;

(F) income budgeting methods for applicants and recipients;

(G) eligibility redeterminations;

(H) hearings for those aggrieved by a State or local agency decision on eligibility or benefits;

(I) determinations of citizen or alien status;

(J) time limits for processing applications;

(K) response time and other requirements with respect to notices to recipients affecting their eligibility or benefits;

(L) policies on strikers;

(M) incentives to combat fraud; and

(N) work requirements.

SEC. 7174. ADULT IN FAMILY OR HOUSEHOLD ALLOWED TO ATTEST TO CITIZENSHIP STATUS OF FAMILY OR HOUSEHOLD MEMBERS UNDER AFDC AND MEDICAID.

(a) IN GENERAL.—Section 1137(d)(1)(A) (42 U.S.C. 1320b-7(d)(1)(A)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) in the case of an individual who is an adult member of a family or household applying for or receiving such benefits, by such individual or another adult member of such family or household on such individual's behalf, or

"(ii) in the case of an individual who is a child, by an adult on the individual's behalf, or

"(iii) in the case of an individual born into a family or household receiving such benefits, by an adult member of such individual's family or household on the individual's behalf no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to benefits provided on or after October 1, 1992.

SEC. 7175. EXCLUSION FROM INCOME OF $4,000 OF INCOME RECEIVED IN ANY YEAR BY INDIANS FROM INTERESTS INDIVIDUALLY HELD IN TRUST OR RESTRICTED LANDS.

(a) SSI.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (19), by striking "and" after the semicolon;

(2) in paragraph (20), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(21) the first $4,000 of income received in any year by any Indian (within the meaning of the Act of October 19, 1973) from interests individually held by the Indian in trust or restricted lands.".

(b) AFDC.—Section 402(a)(8)(A) (42 U.S.C. 602(a)(8)(A)) is amended—

(1) in clause (viii), by striking "and" after the semicolon; and

(2) by adding at the end the following:

"(x) shall disregard the first $4,000 of income received in any year by any Indian (within the meaning of the Act of October 19, 1973) from interests individually held by the Indian in trust or restricted lands; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 7176. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

Section 505 of the Family Support Act of 1988 is amended—

(1) in subsection (e), by striking "3-year period" and inserting "5-year period",

(2) in subsection (f)(2), by striking "January 1, 1993" and inserting "January 1, 1994", and

(3) in subsection (g), by striking "1991, and 1992" and inserting "1991, 1992, 1993, and 1994".

SEC. 7177. DISCLOSURE OF INFORMATION TO RAILROAD RETIREMENT BOARD.

Section 6103(l)(1)(C) of the Internal Revenue Code of 1986 is amended to read as follows:

"(C) taxes imposed by chapters 22 and 23A, to the Railroad Retirement Board for purposes of its administration of the Railroad Retirement and Railroad Unemployment Insurance Acts.".

SEC. 7178. IMPROVEMENT AND CLARIFICATION OF PROVISIONS PROHIBITING MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY, SUPPLEMENTAL SECURITY INCOME, MEDICARE, MEDICAID, OR THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Section 1140(a) (42 U.S.C. 1320b-10(a)) is amended—

(1) in paragraph (1), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Supplemental Security Income', 'Medicaid', the letters 'SSA', 'HCFA', or 'SSI',"; and

(2) in paragraph (2), by striking "Social Security Administration" each place it appears and inserting "Social Security Administration or Health Care Financing Administration", and by striking "or of the Health Care Financing Administration".

(b) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a), as amended by subsection (a) of this section, is further amended, in the matter following paragraph (2), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(c) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) (42 U.S.C. 1320b-10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation.".

(d) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) (42 U.S.C. 1320b-10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(e) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) (42 U.S.C. 1320b-10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(f) ANNUAL REPORTS.—Section 1140 (42 U.S.C. 1320b-10) is amended by adding at the end the following new subsection:

"(d) The Secretary shall include in the annual report submitted pursuant to section 704 a report on the operation of this section during the year covered by such annual report. Such report shall specify—

"(1) the number of complaints of violations of this section received by the Social Security Administration during the year,

"(2) the number of cases in which a notice of violation of this section was sent by the Social Security Administration during the year requesting that an individual cease activities in violation of this section,

"(3) the number of complaints of violations of this section referred by the Social Security Administration to the Inspector General in the Department of Health and Human Services during the year,

"(4) the number of investigations of violations of this section undertaken by the Inspector General during the year,

"(5) the number of cases in which a demand letter was sent during the year assessing a civil money penalty under this section,

"(6) the total amount of civil money penalties assessed under this section during the year,

"(7) the number of requests for hearings filed during the year pursuant to sections 1140(c)(1) and 1128A(c)(2),

"(8) the disposition during such year of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and

"(9) the total amount of civil money penalties under this section deposited as miscellaneous receipts of the treasury of the United States during the year.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

Subtitle A—Charitable Contribution Provisions

SEC. 8001. ALTERNATIVE MINIMUM TAX TREATMENT.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 is amended by striking paragraph (6) (relating to the appreciated property charitable deduction under the alternative minimum tax) and by redesignating paragraph (7) as paragraph (6).

(b) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (6)" and inserting "and (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in calendar years ending on or after December 31, 1992.

(d) REPORT ON ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied. Such report shall address the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, recommendations for legislative action needed to implement the proposed procedure.

SEC. 80028. ALLOCATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 864 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS.—For purposes of sections 861(b), 862(b), and 863(a)—

"(1) 55 percent of the deduction for charitable contributions provided by section 170 shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(2) the remaining portion of such deduction shall be apportioned on the basis of gross income.

For purposes of the preceding sentence, all members of an affiliated group (as defined in subsection (e)(5)(A)) shall be treated as 1 corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made on or after July 1, 1993.

SEC. 8003. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $100 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGMENT.—An acknowledgment meets the requirements of this subparagraph (B) if it provides information sufficient to substantiate the amount of the deductible contribution. If the contribution was made by means of a payment part of which constituted consideration for goods or services provided by the donee organization, the acknowledgment must provide a good faith estimate of the value of such goods or services.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1993.

SEC. 8004. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution, the organization shall, in connection with the solicitation or receipt of the contribution—

"(1) inform the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provide the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new item:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1993.

SEC. 8005. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term 'qualified sponsorship payment' means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use of the name or logo of such person's trade or business in connection with any qualified public event. For purposes of this paragraph, the use of the name or logo of such person's trade or business does not include advertising or promotion of such person's products or services.

"(3) QUALIFIED PUBLIC EVENT.—For purposes of this subsection, the term 'qualified public event' means any public event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if—

"(A) substantially all the activities of the organization in conducting the event are not subject to tax under section 511, and

"(B) the net proceeds from the event are used for purposes described in section 170(c)(2)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments received in connection with events conducted after the date of the enactment of this Act.

Subtitle B—Foreign Provisions

SEC. 8101. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES RECEIVED BY NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

(a) GENERAL RULE.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—Section 871 (relating to tax on nonresident alien individuals) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXEMPTION FOR CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

"(1) INTEREST-RELATED DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any interest-related dividend received from a regulated investment company.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to any interest-related dividend received from a regulated investment company by a 10-percent shareholder of such company,

"(ii) to any interest-related dividend received from a regulated investment company by a person who is not a 10-percent shareholder of such company to the extent such dividend is attributable to interest received by such company on indebtedness issued by such person or by any corporation or partnership with respect to which such person is a 10-percent shareholder,

"(iii) to any interest-related dividend with respect to stock of a regulated investment company if the person who would otherwise be required to deduct and withhold tax from such dividend under chapter 3 has not received a statement (which meets requirements similar to the requirements of subsection (h)(4)) that the beneficial owner of such stock is not a United States person, and

"(iv) to any interest-related dividend paid to any person within a foreign country (or any interest-related dividend payment addressed to, or for the account of, persons within such foreign country) during any period described in subsection (h)(5) with respect to such country.

Clause (iv) shall not apply to any dividend with respect to any stock which was acquired on or before the date of the publication of the Secretary's determination under subsection (h)(5).

"(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph, an interest-related dividend is any dividend (or part thereof) which is designated by the regulated investment company as an interest-related dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified net interest income of the company for such taxable year, the portion of each distribution which shall be an interest-related dividend shall be only that portion of the amounts so designated which such qualified net interest income bears to the aggregate amount so designated.

"(D) QUALIFIED NET INTEREST INCOME.—For purposes of subparagraph (C), the term 'qualified net interest income' means the qualified interest income of the regulated investment company reduced by the deductions properly allocable to such income.

"(E) QUALIFIED INTEREST INCOME.—For purposes of subparagraph (D), the term 'qualified interest income' means the sum of the following amounts derived by the regulated investment company from sources within the United States:

"(i) Any amount includible in gross income as original issue discount (within the meaning of section 1273) on an obligation payable 183 days or less from the date of original issue (without regard to the period held by the company).

"(ii) Any interest (including original issue discount) on an obligation which is in registered form; except that this clause shall not apply to any interest on an obligation issued by a corporation or partnership if the regulated investment company is a 10-percent shareholder in such corporation or partnership.

"(iii) Any interest referred to in subsection (i)(2)(A).

"(F) 10-PERCENT SHAREHOLDER.—For purposes of this paragraph, the term '10-percent shareholder' has the meaning given to such term by subsection (h)(3).

"(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any short-term capital gain dividend received from a regulated investment company.

"(B) EXCEPTION FOR ALIENS TAXABLE UNDER SUBSECTION (a)(2).—Subparagraph (A) shall not apply in the case of any nonresident alien individual subject to tax under subsection (a)(2).

"(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified short-term gain of the company for such taxable year, the portion of each distribution which shall be a short-term capital gain dividend shall be only that portion of the amounts so designated which such qualified short-term gain bears to the aggregate amount so designated.

"(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term 'qualified short-term gain' means the excess of the net short-term capital gain of the regulated investment company for the taxable year over the net long-term capital loss (if any) of such company for such taxable year. The amount determined under the preceding sentence shall be reduced by any deductions of the company properly allocable to the net short-term capital gain."

(2) FOREIGN CORPORATIONS.—Section 881 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TAX NOT TO APPLY TO CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

"(1) INTEREST-RELATED DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1) of subsection (a) on any interest-related dividend (as defined in section 871(k)(1)) received from a regulated investment company.

"(B) EXCEPTION.—Subparagraph (A) shall not apply—

"(i) to any dividend referred to in section 871(k)(1)(B), and

"(ii) to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company from a person who is a related person (within the meaning of section 864(d)(4)) with respect to such controlled foreign corporation.

"(C) TREATMENT OF DIVIDENDS RECEIVED BY CONTROLLED FOREIGN CORPORATIONS.—The rules of subsection (c)(4)(A) shall apply to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) (and not described in clause (i) or (iii) of such section).

"(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—No tax shall be imposed under paragraph (1) of subsection (a) on any short-term capital gain dividend (as defined in section 871(k)(2)) received from a regulated investment company."

(3) WITHHOLDING TAXES.—

(A) Subsection (c) of section 1441 is amended by adding at the end thereof the following new paragraph:

"(12) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(k).

"(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (ii) of section 871(k)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause. A similar rule shall apply with respect to the exception contained in section 871(k)(2)(B)."

(B) Subsection (a) of section 1442 is amended—

(i) by striking "and the references in section 1441(c)(10)" and inserting "the reference in section 1441(c)(10)", and

(ii) by inserting before the period at the end thereof the following: ", and the references in section 1441(c)(12) to section 871(a) and 871(k) shall be treated as referring to sections 881(a) and 881(e) (except that for purposes of applying subparagraph (A) of section 1441(c)(12), as so modified, clause (ii) of section 881(e)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause)".

(b) TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER SECTION 897.—

(1) Paragraph (1) of section 897(h) is amended by striking "REIT" each place it appears and inserting "qualified investment entity".

(2) Paragraphs (2) and (3) of section 897(h) are amended to read as follows:

"(2) SALE OF STOCK IN DOMESTICALLY CONTROLLED ENTITY NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically controlled qualified investment entity.

"(3) DISTRIBUTIONS BY DOMESTICALLY CONTROLLED QUALIFIED INVESTMENT ENTITIES.—In the case of a domestically controlled qualified investment entity, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain."

(3) Subparagraphs (A) and (B) of section 897(h)(4) are amended to read as follows:

"(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means any real estate investment trust and any regulated investment company.

"(B) DOMESTICALLY CONTROLLED.—The term 'domestically controlled qualified investment entity' means any qualified investment entity in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons."

(4) Subparagraphs (C) and (D) of section 897(h)(4) are each amended by striking "REIT" and inserting "qualified investment entity".

(5) The subsection heading for subsection (h) of section 897 is amended by striking "REITS" and inserting "CERTAIN INVESTMENT ENTITIES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after the date of the enactment of this Act; except that the amendment made by subsection (b)(2) shall take effect on such date of enactment.

SEC. 8102. ELECTION TO BE EXEMPT FROM 90-PERCENT LIMITATION ON MINIMUM TAX FOREIGN TAX CREDIT.

(a) GENERAL RULE.—Paragraph (2) of section 59(a) (relating to limitation to 90 percent of tax) is amended by adding at the end thereof the following new subparagraph:

"(D) ELECTION TO HAVE LIMITATION NOT APPLY.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any domestic corporation to which an election under this subparagraph applies.

"(ii) ELECTION.—An election under this subparagraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(iii) CROSS REFERENCE.—

"For effect of election on application of subpart F, see section 965."

(b) TREATMENT OF ELECTING CORPORATIONS UNDER SUBPART F.—

(1) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 965. SPECIAL RULES FOR CORPORATIONS TO WHICH CERTAIN ELECTIONS APPLY.

"(a) ELECTIONS UNDER SECTION 59(a)(2)(D).—

"(1) IN GENERAL.—In determining the amount includible under section 951 in the gross income of any domestic corporation to which this subsection applies—

"(A) sections 954, 964(a), and 964(b) shall not apply, and

"(B) section 952 shall be applied as if it read as follows:

" 'SEC. 952. SUBPART F INCOME.

" '(a) GENERAL RULE.—For purposes of this subpart, the term 'subpart F income' means the earnings and profits of the controlled foreign corporation for the taxable year computed with the following adjustments:

" '(1) There shall be excluded the amount of the earnings and profits which are attributable to income from sources within the United States which is effectively connected with the conduct by the controlled foreign corporation of a trade or business within the United States, except to the extent such income is exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States. For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.

" '(2) In determining earnings and profits (or the deficit in earnings and profits), the amount of any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) shall not be taken into account to decrease such earnings and profits or to increase such deficit. The payments referred to in the preceding sentence are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person.

" '(3) Under regulations prescribed by the Secretary, there shall be excluded the part of any earnings and profits if it is established to the satisfaction of the Secretary that such part could not have been distributed by the controlled foreign corporation to United States shareholders who own (within the meaning of section 958(a)) stock of such controlled foreign corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

" '(4) Earnings and profits shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation.

Except as provided in this subsection and section 312(k)(4), the earnings and profits of any foreign corporation, and the deficit and earnings and profits of any foreign corporation for any taxable year shall be determined according to rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary.

" '(b) CERTAIN DEFICITS MAY BE TAKEN INTO ACCOUNT.—

" '(1) TREATMENT OF CERTAIN PRIOR YEAR DEFICITS.—

" '(A) IN GENERAL.—The amount included in the gross income of any United States shareholder under section 951(a)(1)(A)(i) for any taxable year with respect to any controlled foreign corporation shall be reduced by the amount of such shareholder's pro rata share of any qualified deficit of such controlled foreign corporation.

" '(B) QUALIFIED DEFICIT.—For purposes of this paragraph—

" '(i) IN GENERAL.—The term 'qualified deficit' means any deficit in the earnings and profits of the controlled foreign corporation for any prior taxable year which began after December 31, 1992, and for which such corporation was a controlled foreign corporation, but only to the extent such deficit has not previously been taken into account under this paragraph.

" '(ii) SPECIAL RULE FOR DEFICITS BEFORE 1993.—The term 'qualified deficit' includes any deficit in earnings and profits for any taxable year beginning before January 1, 1993, to the extent that such deficit qualified as a qualified deficit under subsection (c)(1)(B) of section 952; except that any such deficit may be taken into account under this paragraph only to offset amounts attributable to the same activity as the activity giving rise to such deficit.

" '(C) PRO RATA SHARE.—For purposes of this paragraph, the shareholder's pro rata share of any deficit shall be determined under rules similar to the rules of section 951(a)(2) for whichever of the following yields the smaller share:

" '(i) the close of the taxable year, or

" '(ii) the close of the taxable year in which the deficit arose.

" '(2) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

" '(A) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under paragraph (1).

" '(B) QUALIFIED CHAIN MEMBER.—For purposes of this paragraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

" '(i) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

" '(ii) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

" '(C) COORDINATION.—This paragraph shall be applied after paragraph (1).

" '(3) DETERMINATION OF DEFICIT.—In determining the amount of any deficit in earnings and profits, the adjustments set forth in subsection (a) shall apply.'

"(2) CORPORATIONS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any domestic corporation if—

"(i) an election under section 59(a)(2)(D) applies to such corporation, or

"(ii) such corporation is a member of an expanded affiliated group which includes a corporation to which such an election applies.

"(B) EXPANDED AFFILIATED GROUP.—For purposes of subparagraph (A), the term 'expanded affiliated group' means any group of corporations which would be treated as members of the same affiliated group if—

"(i) section 1504(b) were applied without regard to paragraph (2) thereof,

"(ii) the exception contained in section 1504(b)(3) did not apply for purposes of determining whether any domestic corporation is a member of such group,

"(iii) the constructive ownership rules of section 1563(e) apply for purposes of section 1504(a), and

"(iv) the requirements of paragraph (2) of section 1504(a) were treated as met if the requirements of subparagraph (A) or (B) of such paragraph (2) are met (determined by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears)."

(2) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N

of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 965. Special rules for corporations to which certain elections apply.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of domestic corporations beginning after December 31, 1992, and to taxable years of controlled foreign corporations which end with or within such taxable years of domestic corporations.

SEC. 8103. ALLOCATION OF INTEREST EXPENSE IN CASE OF AFFILIATED GROUPS INCLUDING REGULATED GAS OR ELECTRIC UTILITIES.

(a) GENERAL RULE.—Subsection (e) of section 864 (relating to rules for allocating interest, etc.) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SPECIAL RULES FOR ALLOCATING INTEREST EXPENSE IN CASE OF REGULATED GAS OR ELECTRIC UTILITIES.—

"(A) ALLOCATION FORMULA.—The interest expense of a qualified utility group to which an election under this paragraph applies shall be allocated and apportioned to income from sources outside the United States to the extent that the amount of such expense does not exceed the excess (if any) of—

"(i) the foreign-sourced interest expense of the expanded group, over

"(ii) the foreign-sourced interest expense of the foreign corporations in such expanded group.

"(B) FOREIGN-SOURCED INTEREST EXPENSE.—For purposes of this paragraph—

"(i) The foreign-sourced interest expense of the expanded group is the portion of the total interest expense of the expanded group which would be allocated and apportioned to income from sources outside the United States if all of the members of such group were a single corporation. For purposes of the preceding sentence, only the pro rata shares of the interest expense and assets of the foreign corporations which are members of such group shall be taken into account. For purposes of the preceding sentence, pro rata share shall be determined on the basis of the portion of the stock in any such foreign corporation held directly by members of the qualified utility group and shall be appropriately reduced to take into account any reduction in subpart F income under section 952(a)(3) (as modified under section 965).

"(ii) The foreign-sourced interest expense of the foreign corporations which are members of the expanded group shall be determined under the rules of clause (i) by treating all of such foreign corporations as a single corporation.

"(C) EXPANDED GROUP.—For purposes of this paragraph, the term 'expanded group' means the qualified utility group and any foreign regulated gas or electric utility with respect to which members of such group meet the stock ownership requirements of section 902(a).

"(D) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(E) QUALIFIED UTILITY GROUP.—For purposes of this paragraph, the term 'qualified utility group' means any affiliated group if—

"(i) 80 percent or more of the gross income of such group is attributable to the production, transmission or distribution of electricity, or the distribution of gas,

"(ii) 65 percent or less of the average daily total capital of such group for the taxable year is in the form of debt, and

"(iii) one or more members of the group is regulated by one or more State regulatory commissions with respect to the distribution of gas or electricity.

Such term shall not include any affiliated group which is part of an expanded affiliated group (as defined in section 965(a)(2)(B)) if the requirements of the preceding sentence are not met with respect to such expanded affiliated group.

"(F) FOREIGN REGULATED GAS OR ELECTRIC UTILITY.—For purposes of this paragraph, the term 'foreign regulated gas or electric utility' means any foreign corporation if—

"(i) 80 percent or more of the gross income of such corporation is attributable to the production, transmission or distribution of electricity, or the distribution of gas,

"(ii) 65 percent or less of the average daily total capital of such corporation for the taxable year is in the form of debt, and

"(iii) the activities of such foreign corporation referred to in clause (i) are regulated by one or more regulatory commissions established pursuant to foreign law."

(b) TREATMENT UNDER SUBPART F.—Section 965 (as added by section 8102) is amended by adding at the end thereof the following new subsection:

"(b) TREATMENT OF QUALIFIED UTILITY GROUPS TO WHICH ELECTION UNDER SECTION 864(e)(7) APPLIES.—

"(1) IN GENERAL.—In determining the amount includible under section 951 in the gross income of any domestic corporation to which this subsection applies—

"(A) the modifications of subparagraphs (A) and (B) of subsection (a)(1) shall apply, and

"(B) the term 'controlled foreign corporation' includes any foreign corporation with respect to which the stock ownership requirements of section 902 are met by such corporation or by corporations which are members of the expanded affiliated group which includes such corporation.

"(2) CORPORATIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any domestic corporation—

"(A) which is a member of a qualified utility group (as defined in section 864(e)(7)(E)) to which an election under section 864(e)(7) applies, or

"(B) which is a member of an expanded affiliated group which includes a qualified utility group referred to in subparagraph (A).

"(3) EXPANDED AFFILIATED GROUP.—For purposes of this subsection, the term 'expanded affiliated group' has the meaning given to such term by subsection (a)(2)(B)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of domestic corporations beginning after December 31, 1992, and to taxable years of foreign corporations which end with or within such taxable years of domestic corporations.

SEC. 8104. TREATMENT OF COMMODITY TRANSACTIONS UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(c)(1)(C) (relating to commodity transactions) is amended to read as follows:

"(ii) are active business gains or losses from the sale of commodities by the controlled foreign corporation as an active producer, processor, merchant, or handler of commodities, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1992.

SEC. 8105. INTERNATIONAL COMPETITIVENESS.

(a) GENERAL RULE.—The Secretary of the Treasury shall conduct a study of tax issues relating to the maintenance and enhancement of the competitiveness of the American economy in light of changing economic policies in Europe and the increasing globalization of the world economy.

(b) REPORT.—Not later than January 1, 1994, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under this section (together with such recommendations as he may deem advisable).

Subtitle C—Other Revenue Provisions

SEC. 8201. INCOME EXCLUSION FOR EDUCATION BONDS EXPANDED.

(a) IDENTIFYING INFORMATION REQUIRED.—Section 135(b)(2) is amended to read as follows:

"(2) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO INDIVIDUAL FOR WHOM EXPENSES PAID.—No amount shall be allowed as an exclusion under subsection (a) unless the taxpayer includes the name, address, and taxpayer identification number of the person for whom qualified higher education expenses were paid on the return on which the exclusion is claimed."

(b) ELIMINATION OF AGE RESTRICTION.—Section 135(c)(1) (defining qualified United States savings bonds) is amended—

(1) by striking subparagraph (B),

(2) by inserting "and" at the end of subparagraph (A), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) EXCLUSION EXPANDED TO ALL INDIVIDUALS.—Subparagraph (A) of section 135(c)(2) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for enrollment or attendance of any individual at an eligible educational institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1989, and redeemed after December 31, 1992.

SEC. 8202. TAX TREATMENT OF PAYMENTS UNDER LIFE INSURANCE CONTRACTS FOR TERMINALLY ILL INDIVIDUALS.

(a) TREATMENT AS INSURANCE.—

(1) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF AMOUNTS PAID WITH RESPECT TO TERMINALLY ILL INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a licensed physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1989.

(b) TAX TREATMENT OF COMPANIES ISSUING QUALIFIED TERMINAL ILLNESS RIDERS.—

(1) QUALIFIED TERMINAL ILLNESS RIDER TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED TERMINAL ILLNESS RIDER TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to life insurance shall be treated as including a reference to a qualified terminal illness rider.

"(2) QUALIFIED TERMINAL ILLNESS RIDER.—For purposes of this subsection, the term 'qualified terminal illness rider' means any rider or addendum on, or other provision of, a life insurance contract which provides for payments to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(2)).."

(2) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—For purposes of

applying section 7702 or 7702A of the Internal Revenue Code of 1986 to any contract (or determining whether either such section applies to such contract), the issuance of a qualified terminal illness rider (as defined in section 818(g)(2) of such Code) with respect to any contract shall not be treated as a modification or material change of such contract.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after December 31, 1989.

(c) APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE POLICIES.—

(1) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"TREATMENT OF ACCELERATED DEATH BENEFITS

"SEC. 1143. (a) IN GENERAL.—Notwithstanding any other provision of law, no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title IV, X, XIV, XVI, or XIX, of assistance funded by payments under title V or XX, or of benefits under the Supplemental Security Income program established by title XVI shall—

"(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election to receive an accelerated death benefit under a policy of life insurance, or

"(2) by reason of failure to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

"(b) ACCELERATED DEATH BENEFIT.—For purposes of this section, the term 'accelerated death benefit' means any payment made under the terms of a life insurance policy, while the insured individual is alive, as a result of a recalculation of the insured individual's life expectancy."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on January 1, 1990.

SEC. 8203. BASIS ADJUSTMENT FOR DISALLOWED LOSSES ON PRIOR SALES OF PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Section 1016 (relating to adjustments to basis) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCREASE IN BASIS FOR CERTAIN PRIOR LOSSES ON SALES OF PRINCIPAL RESIDENCES.—

"(1) IN GENERAL.—If property used by the taxpayer as his principal residence is sold by him, and within the period applicable under section 1034, property is purchased and used by the taxpayer as his principal residence, any loss from such sale which is not allowed as a deduction shall be applied to increase the basis of the property so purchased and used by the taxpayer.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c) and (f) of section 1034 shall apply for purposes of paragraph (1).

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term, 'principal residence' has the same meaning as when used in section 1034."

(b) CROSS REFERENCE.—Subsection (l) of section 1034 is amended to read as follows:

"(l) CROSS REFERENCES.—

"(1) For one-time exclusion of gross income of gain from sale of principal residence by individual who has attained age 55, see section 121.

"(2) For increase in basis for loss on prior sale of principal residence, see section 1016(e)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses on sales and exchanges after the date of the enactment of this Act; except that such amendments shall not apply for purposes of determining gain on any sale or exchange before January 1, 1994.

SEC. 8204. LIMITATION ON STATE TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4 of the United States Code is amended by adding at the end thereof the following new section:

"§114. Limitation on State income taxation of pension income

"(a) No State may impose an income tax (as defined in section 110(c)) on the qualified pension income of any individual who is not a resident or domiciliary of such State.

"(b)(1) For purposes of subsection (a), the term 'qualified pension income' means any payment from a qualified plan—

"(A) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient or for the joint lives or joint life expectancies of the recipient and the recipient's designated beneficiary, or

"(ii) a period of not less than 10 years, or

"(B) which is not described in subparagraph (A) and which—

"(i) is received in a taxable year for which an election under this subsection is in effect, and

"(ii) is received on or after the date on which the recipient has attained the age of 59½,

except that the aggregate amount of payments to which this subparagraph may apply for any taxable year shall not exceed $25,000.

"(2) For purposes of paragraph (1), the term 'qualified plan' means—

"(A) an employees' trust described in section 401(a) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code,

"(B) a simplified employee pension described in section 408(k) of such Code,

"(C) an annuity plan described in section 403(a) of such Code,

"(D) an annuity contract described in section 403(b) of such Code,

"(E) an individual retirement plan described in section 7701(a)(37) of such Code, or

"(F) an eligible deferred compensation plan under section 457 of such Code.

"(3)(A) An election under paragraph (1)(B), once made for a taxable year, may not be made for any other taxable year.

"(B) In calendar years beginning after 1992, the $25,000 amount referred to in paragraph (1)(B) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code for such calendar year by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

"(c) For purposes of subsection (a), the term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 4 is amended by adding at the end thereof the following new item:

"114. Limitation on State income taxation of pension income."

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

SEC. 8205. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section, the term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(1) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(2) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act).

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit), as amended by section 1105(b), is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", plus", and by adding at the end the following new paragraph:

"(9) the employer social security credit determined under section 45(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 (relating to transitional rules), as amended by section 1105(b), is amended by adding at the end the following new paragraph:

"(4) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45 may be carried back to a taxable year ending before the date of the enactment of section 45."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45. Employer social security credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) after the date of the enactment of this Act.

SEC. 8206. CLARIFICATION OF TREATMENT OF VETERANS' BENEFITS.

(a) IN GENERAL.—Section 134(b)(1) (relating to qualified military benefit) is amended by adding at the end thereof the following flush sentence: "For purposes of this paragraph, the term 'qualified military benefit' includes any allowance or benefit administered by the Secretary of Veterans Affairs."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 8207. STUDY OF SEMICONDUCTOR MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of semiconductor manufacturing equipment to determine the appropriate recovery period and class life under section 168 of the Internal Revenue Code of 1986 for such equipment.

(b) REPORT.—The report of such study shall be submitted before April 1, 1993, to the Commit-

tee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 8208. 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 a regulated investment company in exchange solely for stock in such company, 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 any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(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 the regulated investment company, the assumption by 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—

"(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 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).

"(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 the 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, if it were a corporation, would not meet the requirements of section 368(a)(2)(F)(ii). For purposes of the preceding sentence, clause (iv) of section 368(a)(2)(F) shall not apply and Government securities shall not be treated as securities of an issuer in applying the 25 percent and 50 percent tests.

"(5) LIMITATION ON SUBSEQUENT TRANSFER.—This subsection shall not apply in the case of a common trust fund that received assets from a regulated investment company in a transfer to which section 852(g)(1) applied."

(b) CONFORMING AMENDMENT.—Section 584, as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(j) CROSS REFERENCE.—

"For transfers from a regulated investment company to a common trust fund, see section 852(g)."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies to transfers after the date of the enactment of this Act.

SEC. 8209. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY REGULATED INVESTMENT COMPANIES TO COMMON TRUST FUNDS.

(a) GENERAL RULE.—Section 852 (relating to the taxation of regulated investment companies and their shareholders) is amended by inserting after subsection (f) the following new subsection:

"(g) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO COMMON TRUST FUNDS.—

"(1) IN GENERAL.—If—

"(A) a regulated investment company transfers substantially all of its assets to a common trust fund (as defined in section 584) in exchange solely for participating interests in such common trust fund, and

"(B) such participating interests are distributed by such regulated investment company to the shareholders of such regulated investment company in exchange for their shares in the regulated investment company,

no gain or loss shall be recognized by such regulated investment company by reason of such transfer or distribution, and no gain or loss shall be recognized by any shareholder of such regulated investment company by reason of such exchange.

"(2) BASIS RULES.—

"(A) COMMON TRUST FUND.—The basis of any asset received by a common trust fund in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the regulated investment company.

"(B) SHAREHOLDERS.—The basis of any participating interest in a common trust fund which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the shares exchanged.

"(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 interests in the common trust fund, the assumption by such common trust fund of a liability of the regulated investment company, and the fact that any property transferred by the regulated investment company 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 regulated investment company) of the assets transferred to the common trust fund—

"(I) notwithstanding paragraph (1), gain shall be recognized to the regulated investment company on such transfer in an amount equal to such excess, and

"(II) the basis of the assets received by the common trust fund in such transfer shall be increased by the amount so recognized.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the regulated investment company assumed by the common trust fund in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) REGULATED INVESTMENT COMPANY MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any regulated investment company which does not meet the requirements of section 368(a)(2)(F)(ii). For purposes of the preceding sentence, clause (iv) of section 368(a)(2)(F) shall not apply and Government securities shall not be treated as securities of an issuer in applying the 25 percent and 50 percent tests.

"(5) LIMITATION ON SUBSEQUENT TRANSFER.—This subsection shall not apply to a regulated investment company that received assets from a common trust fund in a transfer to which section 584(h)(1) applied."

(b) CONFORMING AMENDMENT.—Section 852, as amended by subsection (a), is amended by adding at the end thereof the following new section:

"(h) CROSS REFERENCE.—

"For transfers from a common trust fund to a regulated investment company, see section 584(h)."

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

SEC. 8210. TAX-FREE SALES OF TRUCKS ASSEMBLED BY EDUCATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end thereof the following new paragraph:

"(8) TRUCKS ASSEMBLED BY NONPROFIT EDUCATIONAL ORGANIZATIONS.—Any article described in section 4051(a) which is, or is part of, an automobile truck, truck trailer, or semitrailer which is assembled by students, and sold, as part of a program included in the regular curriculum of a nonprofit educational organization, but only if the proceeds from such sale are to be used solely for the purpose of defraying costs incurred in connection with such program."

(b) ALLOWANCE OF CREDIT OR REFUND.—Section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended by inserting after paragraph (6) the following new paragraph:

"(7) TRUCK CHASSIS, BODIES, AND SEMITRAILERS SOLD BY CERTAIN NONPROFIT EDUCATIONAL ORGANIZATIONS.—If—

"(A) a nonprofit educational organization has sold an automobile truck, truck trailer, or semitrailer assembled by students as part of a program included in the regular curriculum of such organization and the proceeds from such sale are to be used solely for the purpose of defraying costs incurred in connection with such program, and

"(B) the tax imposed by section 4051 has been paid with respect to such sale,

such tax shall be deemed to be an overpayment by such organization."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1992.

SEC. 8211. TREATMENT OF CANCELLATION OF CERTAIN STUDENT LOANS.

(a) IN GENERAL.—Paragraph (2) of section 108(f) (defining student loan) is amended by striking subparagraph (D) and inserting the following:

"(D) any educational organization so described if such loan is made—

"(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under

which the funds from which the loan was made were provided to such educational organization, or

"(ii) pursuant to a program of such educational organization designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs; except that this clause shall not apply in the case of any discharge if the discharge is on account of services performed for any employer and such employer directly or indirectly provides funds for such discharge.

The term 'student loan' includes any loan made by an educational organization so described or by an organization exempt from tax under section 501(a) to refinance a loan meeting the requirements of the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after the date of the enactment of this Act.

SEC. 8212. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1993 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

SEC. 8213. FRINGE BENEFITS OF AIRLINE AFFILIATE EMPLOYEES.

(a) QUALIFIED AFFILIATE.—Section 132(h)(6)(A) is amended—

(1) by inserting "or is an entity at least 80 percent of which is owned directly by one or more corporations which operate an airline," after "airline," in clause (i), and

(2) by inserting "or by an owner of such entity" after "member" in clause (ii).

(b) CONFORMING AMENDMENT.—Section 132(h)(6)(B) is amended by inserting "or other entity" after "corporation".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8214. TREATMENT OF PARTNERSHIP INVESTMENT EXPENSES UNDER MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 56(b)(1) (relating to limitation on deductions) is amended to read as follows:

"(A) DISALLOWANCE OF CERTAIN DEDUCTIONS.—

"(i) IN GENERAL.—No deduction shall be allowed—

"(I) for any miscellaneous itemized deduction (as defined in section 67(b)), or

"(II) for any taxes described in paragraph (1), (2), or (3) of section 164(a).

"(ii) TREATMENT OF PARTNERSHIP INVESTMENT EXPENSES.—Subclause (I) of clause (i) shall not apply to the taxpayer's distributive share of the expenses described in section 212 of any partnership; except that the aggregate amount allowed as a deduction by reason of this sentence shall not exceed the lesser of (I) the aggregate adjusted investment income of the taxpayer from partnerships, or (II) the excess of the aggregate of the taxpayer's distributive shares of such expenses over 2 percent of adjusted gross income. For purposes of the preceding sentence, the term 'adjusted investment income' means investment income (as defined in section 163(d)(4)(B)) reduced by investment interest (as defined in section 163(d)(3)).

"(iii) TREATMENT OF CERTAIN TAXES.—Subclause (II) of clause (i) shall not apply to any amount allowable in computing adjusted gross income."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

SEC. 8215. TREATMENT OF UNPAID CHILD SUPPORT.

(a) ALLOWANCE OF BAD DEBT DEDUCTION FOR PARTIALLY UNPAID CHILD SUPPORT PAYMENTS.—

(1) IN GENERAL.—Section 166 (relating to deduction for bad debts) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN UNPAID CHILD SUPPORT PAYMENTS.—

"(1) IN GENERAL.—In the case of any eligible taxpayer who has any applicable child support payments remaining unpaid as of the close of the taxable year—

"(A) subsections (a) and (d) shall not apply to such payments, and

"(B) there shall be allowed as a deduction for such taxable year an amount equal to the amount of such payments.

"(2) PER CHILD LIMITATION ON DEDUCTION.—The aggregate amount allowable as a deduction for any taxable year under paragraph (1) with respect to any child for whom applicable child support payments are required to be paid shall not exceed $5,000.

"(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' means an individual—

"(A) whose adjusted gross income for the taxable year does not exceed $50,000,

"(B) with respect to whom the amount of applicable child support payments remaining unpaid as of the close of the taxable year is equal to or greater than $500, and

"(C) who meets the identification requirements of paragraph (5).

"(4) APPLICABLE CHILD SUPPORT PAYMENT.—

"(A) IN GENERAL.—The term 'applicable child support payment' means, with respect to any taxable year of the eligible taxpayer—

"(i) any periodic payment of a fixed amount, or

"(ii) any payment of a medical or educational expense, insurance premium, or other similar item,

which is required to be paid to such taxpayer during such taxable year by an individual under a support instrument meeting the requirements of paragraph (8) for the support of any qualifying child of such individual.

"(B) QUALIFYING CHILD.—For purposes of this paragraph, the term 'qualifying child' means a child of an eligible individual with respect to whom a deduction is allowable under section 151 for the taxable year (or would be so allowable but for paragraph (2) or (4) of section 152(e)) or, while eligible for such deduction, was determined to be disabled under subtitles 2 or 16 of chapter 42.

"(C) PAYMENTS MUST BE DELINQUENT FOR AT LEAST ENTIRE YEAR.—Any payment described in subparagraph (A) which is required to be made by an individual to an eligible taxpayer shall not be treated as an applicable unpaid child support payment if at least half of the payments which are required to be paid to the eligible taxpayer during the 12-month period ending on the last day of the taxable year are paid. In the case of the 1st taxable year to which this subsection applies to payments from any individual, the preceding sentence shall be applied by substituting '24-month' for '12-month'.

"(D) COORDINATION WITH AFDC.—The term 'applicable child support payment' shall not include any payment the right to which has been assigned to a State under section 402(a)(26) of the Social Security Act (42 U.S.C. 602(a)(26)).

"(5) IDENTIFICATION REQUIREMENTS.—The requirements of this paragraph are met if the eligible taxpayer includes on the return claiming the deduction under this subsection the name, address, and taxpayer identification number of—

"(A) each child with respect to whom child support payments to which this subsection applies are required to be paid, and

"(B) the individual who was required to make such child support payments.

In the case of a failure to provide the information under subparagraph (B), the preceding sentence shall not apply if the eligible taxpayer certifies that any such information is not known.

"(6) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning after 1992, the $5,000 amount under paragraph (2)(A), the $50,000 amount under paragraph (3)(A), and the $500 amount under paragraph (3)(B) shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting '1991' for '1989'.

"(7) SUBSEQUENT PAYMENTS.—If any payment with respect to which a deduction was allowed under paragraph (1) is subsequently made, such payment shall be included in gross income of the eligible taxpayer for the taxable year in which paid. This paragraph shall not apply to any amount if an individual has assigned the right to receive such amount to a State (and the State does not pay such amount to such individual).

"(8) SUPPORT INSTRUMENT.—For purposes of this subsection, a support instrument meets the requirements of this paragraph if it is—

"(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

"(B) a written separation agreement, or

"(C) a decree (not described in subparagraph (A)) of a court or administrative agency requiring a parent to make payments for the support or maintenance of 1 or more children of such parent."

(2) DEDUCTION FOR NONITEMIZERS.—Section 62(a) is amended by adding at the end thereof the following new paragraph:

"(14) UNPAID CHILD SUPPORT PAYMENTS.—The deduction allowed by section 166(f)."

(3) CONFORMING AMENDMENT.—Section 166(d)(2) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or" and by adding at the end thereof the following new subparagraph:

"(C) a debt which is an applicable child support payment under subsection (f)."

(b) INCLUSION IN INCOME OF AMOUNT OF UNPAID CHILD SUPPORT PAYMENTS.—Section 108 (relating to discharge of indebtedness income) is amended by adding at the end thereof the following new subsection:

"(h) UNPAID CHILD SUPPORT PAYMENTS.—

"(1) IN GENERAL.—For purposes of this chapter, any taxable unpaid child support payments of a taxpayer for any taxable year shall be treated as amounts includible in gross income of

the taxpayer for the taxable year by reason of the discharge of indebtedness of the taxpayer.

"(2) TAXABLE UNPAID CHILD SUPPORT PAYMENTS.—For purposes of this subsection, the term 'taxable unpaid child support payments' means payments—

"(A) which were applicable child support payments which the taxpayer was required to pay under a support instrument for the support of a child of the taxpayer, and

"(B) with respect to which the notice requirements of paragraph (3) are met.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—During January of the second calendar year following a calendar year in which there begins a taxable year for which a deduction allowed under section 166(f) was claimed, the eligible taxpayer shall send a notice (in such form as the Secretary may prescribe) to the individual who failed to make payments which contains—

"(i) the amount of the applicable child support payments for such taxable year, and

"(ii) notice that the individual is required to include such amount in gross income for the taxable year beginning in the preceding calendar year.

"(B) NOTICE BY SECRETARY.—If notice cannot be provided under subparagraph (A) because the address is not known to the eligible taxpayer, the Secretary shall send such notice if the address is available to the Secretary.

"(C) ADDRESS UNKNOWN.—If notice cannot be provided under subparagraph (A) or (B) because there is no known address, no income shall be included in gross income for any taxable year beginning before the calendar year preceding the calendar year in which such notice may be sent.

"(4) SUBSEQUENT PAYMENTS.—If any payment required to be included in gross income under paragraph (1) is subsequently made, the amount of such payment shall be allowed as a deduction for the taxable year in which such payment is made.

"(5) DEFINITIONS.—For purposes of this subsection, the terms 'applicable child support payments' and 'eligible taxpayer' have the meanings given such terms by section 166(f)."

(c) NO EFFECT ON RIGHTS AND LIABILITIES.—Nothing in this section shall be construed to affect—

(1) the right of an individual or State to receive any child support payment; or

(2) the obligation of an individual to pay child support.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 8216. TREATMENT OF NOT-FOR-PROFIT RESIDUAL MARKET INSURANCE COMPANIES.

(a) IN GENERAL.—Subsection (d) of section 56 (relating to alternative tax net operating loss deduction) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR NOT-FOR-PROFIT RESIDUAL MARKET INSURANCE COMPANIES.—Subparagraphs (A)(i) and (B)(ii) of paragraph (1) shall be applied by substituting '100 percent' for '90 percent' with respect to any insurance company which is created by a State or an instrumentality thereof and which is operated on a not-for-profit basis for the primary purpose of providing coverage to individuals or businesses for high-risk needs where coverage is not otherwise available or affordable."

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

Mr. STEVENS. If the Senator would yield, parliamentary inquiry. There is no necessity to have a motion to proceed under the agreement. We are going to be on this finance bill at this time?

The PRESIDING OFFICER. That is the pending business.

Mr. STEVENS. For debate only. When will it be open for amendment?

The PRESIDING OFFICER. At 2:15 today, it will open for amendment, after the 2:15 vote.

Mr. STEVENS. I place the Senate on notice that I wish to be consulted concerning a unanimous-consent request. I maintain that motion, and I wanted the record to show that.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, today I introduce legislation that takes several steps. Some of them are large and some of them small, but they are all positive, in trying to accomplish some of the objectives this country is deeply concerned about. They are steps toward goals that concern the U.S. Senate—goals like revitalizing our cities, increasing savings and capital formation, aiding troubled families, and improving business competitiveness.

Unfortunately, parties outside this Chamber have already attempted to color dialog on the first of these issues. Recently, the Secretary of Housing and Urban Development declared that enterprise zone proposals in this bill are "a hoax to the poor" and a "message to Los Angeles to drop dead." He insisted, in the billboard of a news release, that this proposal would not qualify Los Angeles as an enterprise zone. And he followed immediately with personal calls to mayors and legislators making other misrepresentations.

ENTERPRISE ZONES

Mr. President, this measure does not deny any city enterprise zone status because it does not name cities that are eligible. Rather, it specifies standards of poverty, unemployment, and general economic distress and leaves the naming of specific zones to the Secretary of HUD—gives him great flexibility—and other Cabinet officers. I assure you, Mr. President, areas of Los Angeles definitely qualify under those standards. Therefore, the only way they can be denied enterprise zone status is if the Secretary himself turns them down.

The Secretary has criticized the measure because it lacks a back-end capital gains provision—lay your money on the table, maybe get a break after 5 years. Mr. President, what we do in this one is put those breaks up front. We put the incentives up front, the discounts up front to encourage business people to make those kinds of investments. Remember this, that locations that meet enterprise zone criteria are fierce economic challenges. Any reasonable horizon for appreciation in business assets shimmers far out there in the distance. Investors know that. What is more, capital gains preferences benefit people who sell businesses. Preferences do not support businesses while they struggle to become vital long-term enterprises, and that is what we are trying to do, after all.

This measure offers meaningful incentives to people who will use them inside the enterprise zone. That is who we are trying to help. It does not create tax shelters for arm's length capitalists. It rewards shirtsleeve entrepreneurs who build jobs, businesses, futures and tax bases inside the enterprise zone. And it does so through incentives that offer their payback up front, not on the hazy horizon.

Mr. President, the Finance Committee did not pull the incentives in this legislation from an ill-fitting hat of political dogma. Staff worked around the country with mayors, city planners, legislators, local government, local business people. Those folks—whose authority comes from being on the front lines—told us what they needed to bring involvement and investment and they needed the up-front incentives. The Finance Committee acted on what they advised us.

They said we could stimulate employment through wage credits for the employer, and that is why this bill provides a very generous one.

They lamented on how many employees lacked skills and training—you just do not find that within these distressed areas—and what should be done about it.

And this bill provides the incentives to train those workers. They told us that our problem is not capital gains—it is borrowing money. It is financing. It is being sure they are going to be able to get insurance to protect that investment in that building. Getting loans was their problem. And that is why this measure authorizes tax-exempt bonds for building businesses—and permits the banks to buy them.

And just to be sure, there is an emphasis on equity in this measure. This bill lets investors deduct 50 percent—half—of their investment in stock of enterprise zone businesses.

Mr. President, I want another fact to be as clear as humanly possible: This measure is absolutely no less generous than the $2.5 billion the administration has requested and that the House has accepted. What it does not do is spread the benefits so thin that they do not begin to address the problem, and that is the case where you allocate $2.5 billion to 150 zones.

I cannot help but recall how Model Cities started out. There were just a few cities that it was going to help. But then it became almost a political patronage for it spread across the country and you diminished the effort so much that it failed.

Let us look how the numbers shake out on 150 zones. If you are talking about $2.5 billion in tax incentives for

150 zones spread over 5 years, that is $3.2 million per zone per year, $3.2 million a year to raise Americans from our Nation's most desperate poverty. Los Angeles alone had over a 1 billion dollars' worth of damages. At least Marie Antoinette offered the poor a whole cake. This one says: "Let them eat the crumbs."

That amount per zone will never give you a realistic measure of whether enterprise zones work or not. I am not sure they do. I read every bit of material I get my hands on. I have looked at our plans. I have looked at State plans. I have looked at the British and what they have done. But as long as we are going to do it, then let us make every effort to see that they succeed. So let us put up some parameters. Let us measure and see what effect we have and if they are working let us intensify that effort. Let us do a lot more of it. But give it a chance to work, not just a life-enriching promise for the impoverished that we pass out during an election year.

Mr. President, I could shower this Chamber with a Niagara of detailed comparisons between this measure and the Secretary of HUD's—eligible populations, economic entitlement versus economic empowerment. And I think this one beats it on all counts. And there will be a time for those comparisons.

There is one final opinion I add to my own. In testimony before the Finance Committee, Secretary Jack Kemp said it was more worthwhile to honor Los Angeles Mayor Tom Bradley's ideas than Jack Kemp's. So I quote a letter from Mayor Bradley and Mayor Tom Lanier of Houston. Their endorsements are echoed in letters from the National League of Cities; the National Association of State Treasuries; the National Association of Counties; and the Government Finance Officers Association.

Mayors Bradley and Lanier describes the wage credit as "The most important incentive for providing zone residents with jobs," saying it "will dramatically and immediately reduce an employer's cost of doing business and it is a major step in reducing the unemployment problems in our cities."

Of the Finance Committee's credit for job training expenses, they write, "We believe this new and innovative proposal will greatly encourage businesses to assist in our efforts to provide inner city residents with improved jobs skills particularly with respect to high school aged youth."

They call the bill's inducements for businesses to rehabilitate ravaged buildings and plan new ones "a powerful incentive to rebuild the city."

The bill imposes no limit on the size of enterprise zones, a fact their letter praises because it "gives cities flexibility to design enterprise zones which address widespread poverty."

They write, "it is significant that your tax-exempt bond provisions would apply to more than 200 cities. * * * So even those areas that are not officially designated—as enterprise zones—will qualify for tax-exempt bonds."

Mr. President, I also point out how this legislation includes $2 billion in other measures that bolster the economic foundation of our cities. Those measures include low-income housing credits, mortgage revenue bonds and a targeted jobs tax credit. A vote for this measure is a vote for the future of American cities and Americans who live and work in them.

REVIVING THE IRA

All Americans stand to benefit from another proposal in this bill, the one restoring and improving the real IRA. American business cannot be competitive when it lacks capital to invest particularly when our world competitors enjoy savings rates two and three times greater than ours.

The German rate is twice ours; the Japan rate is three times ours. They have the kind of savings and the kind of capital to build a new and modernized plan to increase their productivity, to increase their international competitiveness.

We have to stop the decay in household savings if we expect to turn around business investment.

When it was fully deductible—universally available—the IRA was the most popular savings vehicle since the cookie jar, and it sure did its job. In 1985, 16 million tax returns showed $38 billion in IRA contributions. And by 1989, after the IRA was neutered: 6 million returns, $11 billion in contributions and our savings rate crumbled one-third to a postwar low.

The American people have confirmed the IRA as a means to spur savings. My Republican colleague BILL ROTH, 76 Senators, and 270 Congressmen who cosponsor its return, and improvement, mirror that consensus.

This measure not only brings IRA's out of retirement. It touches more reasons why people save by granting penalty-free withdrawals for first homes, education, catastrophic medical bills, and protracted unemployment.

It even lets savers choose between tax-deductible contributions now or untaxed withdrawals later.

TAX CREDITS, ALLOWANCES, REAL ESTATE, LUXURY TAX

Besides expanding capital, this measure facilitates business investment and business operations in immediate ways. It extends the R&D tax credit. It repeals depreciation restrictions under ACE rules within the alternative minimum tax.

At urgent request from both sides of the aisle—Republicans and Democrats—this measure repeals the luxury tax that combined with recession to devastate America's boating and aircraft industries, with a great loss of jobs. It aids our afflicted real estate sector through passive loss relief for real estate professionals—not the doctors, not the lawyers, not the people not involved in the business, not the people that they created tax shelters for before. And it makes it easier for pension funds to invest in real estate.

FAMILY ASSISTANCE PACKAGE

Home and family is the focus for another aspect of this legislation, which dedicates more than $2.7 billion over 5 years to lift our society's most vulnerable. This measure supports State programs that address victims of parental and maternal substance abuse.

How many of you have gone into a hospital, looked in that intensive care area, see the rows of babies, some of them no larger than your hand, tubes running in all directions. They call them boarder babies. No one comes to claim them.

This measure supports State programs that address victims of parental and maternal substance abuse. Those are the crack babies that are casualties at birth. It funds education and training that prepare welfare recipients for productive jobs. It launches programs to covert welfare rosters into community service payrolls and to check the alarming pace at which children are farmed out to foster care.

Mr. President, these initiatives yield numberless returns—improved quality of our work force and greater competitiveness as a nation—more opportunity, more people working and more families working to stay together.

TAXPAYER RIGHTS, SIMPLIFICATION

And this measure also assists the people who ultimately pay for everything, the American taxpayer. It further assures he and she are protected and represented as they try to conform with tax laws. It reduces some of their difficulty by making the Tax Code easier to understand. It clarifies relationships and responsibilities and recourse. Especially, it eliminates many complexities and inconsistencies in pension regulations.

CONCLUSION

In closing, Mr. President, I want to emphasize the high degree of consensus that brings this measure before us. It passed the House because there was great accord for action in the areas it addresses. The Finance Committee reported it to this Chamber without dissent. Its Framers consulted closely with the administration and included virtually all its proposals. At each rung in the process it received a hand up from bipartisan cooperation. It is legislation that confronts the concerns of mainstream Americans and draws more Americans into that mainstream. This is legislation that can carry us forward.

Mr. President, I withhold the remainder of my time.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I want to thank the distinguished chairman of the Finance Committee for his hard work on this important legislation.

He has put together a bipartisan bill that covers a lot of ground, and it successfully addresses many issues that all of us—on both sides of the aisle—want to see resolved.

The bill includes: enterprise zones; a new child welfare program and adoption of special needs children; six of the President's seven economic growth proposals; 18-month extensions of various tax provisions that expired on June 30; repeal of the luxury tax on all items except autos; and the taxpayers' bill of rights, tax simplification and a host of other provisions.

In short, this bill takes care of most of our unfinished business on the tax front.

However, let me make a few comments on the enterprise zone proposal in this bill.

Clearly, the Los Angeles riots brought home the severity of the problems in urban America. There is no one among us who is not concerned about the lack of opportunity and lack of hope that exists for many who live in our inner cities. I believe enterprise zones can bring economic opportunity and jobs to these distressed areas.

However, there is a philosophical difference between those of us who would like to see more cities qualify for enterprise zone status, and others who prefer the approach in the bill of a very limited number of zones.

The Finance Committee heard compelling testimony from officials of midsized cities, including Portland, OR, who are faced with severe problems with crime, gang violence, drugs, and minority youth unemployment. In order for these midsized cities to have a chance at this program, the number of zones in the bill must be increased.

Additionally, many of us on this side of the aisle would like to see some form of capital gains relief added to the bill's investment incentives.

I understand that there will be an amendment dealing with these issues.

I am very pleased to see that the bill expands the reforestation trust fund, which is very important to my State of Oregon. In 1980, I introduced the original legislation that led to the creation of the reforestation trust fund. Since that time, the reforestation trust fund has been very successful in reducing the backlog of reforestation projects on Forest Service lands—which was our original goal.

Today, a backlong exists in Oregon, and other States, on land administered by the Bureau of Land Management [BLM]. The expansion of the trust fund in the bill will help reduce this backlog by providing additional money for BLM lands. Increasing the number of trees planted on BLM lands and managing their growth is good for the environment. It also ensures a sustainable harvest that will return money to the States and counties, provide jobs for timber workers, and go a long way toward eliminating the timber supply crisis.

Another provision in this bill that has my enthusiastic support is my PRIME retirement account proposal. The PRIME retirement account is a very simple way for smaller employers to offer retirement savings plans for their employees.

The bill also includes several provisions I have been pushing for which will give a much needed boost to the real estate industry. These include a $2,500 tax credit for first homes, penalty-free IRA withdrawals for first homes, and fairer passive loss rules for real estate professionals. The real estate industry has led us out of recessions in the past and this bill should give them the wherewithal to do it again.

I am very pleased to see the child welfare provisions in this bill. We all know of the alarming number of children in foster care—almost twice as many today than just 10 years ago. Some of this increase is due to growing crack cocaine use by women. The bill will provide needed resources to help pregnant women get drug treatment, parents care for their children, prevent the breakdown of families, and keep children out of foster care. The bill also includes a provision the chairman of the Finance Committee and I have been working on for the last couple of years. It gives parents who are generous enough to adopt a mentally or physically handicapped child some help with adoption expenses in the form of a tax deduction of up to $3,000.

Again I commend the chairman of the Finance Committee for the fine job he has done on this bill. While we do have some differences on some matters, it is by and large a consensus bill and I hope we can complete floor action on this bill quickly, hopefully before we go home for the recess tomorrow.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I thank the ranking member on the committee for the work he has done and for his very generous comments concerning the work we have been able to do together. It is always pleasing when you can bring about a consensus and do these things in a bipartisan way.

In all candor, I think the American public is a little weary of excess partisanship. And this is an example of trying to accomplish something, and bring it forward, that is going to help move this economy of ours forward and take care of some of our people in the most distressed areas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, as I understand it there is a vote scheduled for 12:15. I ask unanimous consent that I might proceed as in morning business until 12:15.

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

RECENT HANDGUN SHOOTINGS AND DEATHS

Mr. CHAFEE. Mr. President, just about 1 month ago, I introduced legislation, S. 2913, to prohibit the sale, manufacture, and possession of handguns—those deadly, easily concealed and easily available weapons. I call my measure the Public Health and Safety Act, and I named it so for good reason.

All of us cannot help but be horrified by the steady stream of news reports on handgun shootings and deaths—each one more senseless and unimaginable than the previous one. It is utterly insane what is taking place in this Nation of ours, and always a handgun is involved.

Look at this report, dated July 20, from Santa Clara, CA: A 49-year-old man shot his next door neighbor to death. Apparently, the man and his wife returned from a 3-day trip and found their newspaper all wet. Assuming the neighbor's dog to be the culprit, the man threw the paper over the fence; the neighbor threw it back; heated words were exchanged; the first man fetched his .357-revolver; a shot is fired, and the neighbor loses his life—all for a wet, day-old newspaper.

In Bridgeport, CT, an 11-year-old girl was shot by a 13-year-old boy. The bullet lodged in her neck; but somehow she survived, although the bullet remains in her neck. Why shoot her? Apparently the boy had given her money to buy candy from a store but said upon her return that she was 35 cents short. So he pulled out a gun and shot her. Because he thought he was ripped off a 13-year-old boy shoots an 11-year-old girl.

Look at this report from Providence, RI: "Boy Held in Assault on Pizza Deliverer." Four teenage boys spending the evening playing basketball decide to quit and order a pizza. All four were armed with 9-millimeter handguns; one of the boys apparently decided that he wanted to use his. Just after midnight, when the pizza deliverer appeared with the food, the 15-year-old boy tried unsuccessfully to rob him, shot him instead, and fled on his bicycle. The pizzaman was hit three times: One bul-

let in the chest, one in the hand, and a third that hit both legs. Why? Because the boy wanted to and he had a handgun readily available.

Here in the District this past weekend, I think every single Washingtonian was horrified at what took place. It was 4 o'clock on a lovely August afternoon. Alain Colaco was out in his front yard. He had finished mowing the lawn and had started weeding the front sidewalk; an unknown man fired a semiautomatic handgun repeatedly at him. Alain was hit in the chest and head; he died almost immediately. Alain Colaco, 15 years old, honor student, most valuable track performer in his school, excellent soccer player, hoped for a career as a scientist, had a sought-after internship with the American Cancer Society. Alain Colaco, dead at age 15 because of the prevalence of handguns.

This horror, this insanity, has got to stop. We must ban all handguns in the United States. Ban the purchase, the sale, the manufacture, and the possession of all handguns.

If we do not, Mr. President, this senseless slaughter of which I have just given a figment, a partial, minute clip of what takes place every day, every weekend, every week across our Nation, this senseless slaughter will continue and, Mr. President, it soon will affect every single family in America.

Mr. President, I ask unanimous consent that the news clippings that I have referred to be printed in the RECORD at this point.

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

[From the Washington Post, Aug. 10, 1992]

SUSPECT TELLS OF "URGE" TO KILL NW TEENAGER

(By Ruben Castaneda)

The man charged with slaying an upper Northwest Washington teenager has told investigators that he killed the honor student because he had the "urge" to do it, according to a law enforcement source familiar with the investigation.

The Friday afternoon shooting of Alain Manuel Colaco, 15, who was shot to death as he was gardening in front of his home, apparently was a random, unprovoked act of violence, said the source, who requested anonymity.

Detectives have turned up no evidence that the suspect, Sean Lee Qualls, 21, of the 6600 block of Piney Branch Road NW, knew Colaco or even exchanged words with him before the shooting, the source said.

The two lived about three miles apart. However, "nowhere down the line had their paths crossed" before the shooting, the source said. Colaco was shot in the head and chest. His attacker fled on foot, according to witnesses.

In an interview with homicide detectives, the only reason Qualls could cite for shooting Colaco was that "he had the urge to do it," the source said. Colaco, a junior at Georgetown Day School, was his track team's most valuable player in the last school year, and was an avid soccer player and budding scientist.

The Colaco shooting occurred about 4 p.m. in a community of two-story and ranch-style houses in the 5400 block of 27th Street NW in Chevy Chase. The neighborhood, a block from Rock Creek Park, previously had been largely spared the violence that has visited some poorer neighborhoods in the District.

Saturday afternoon, a handgun that police believe was used in the slaying was recovered from woods near Rock Creek Park. Though no witnesses appeared to have seen the actual shooting, some reported seeing a man fleeing and ditching a gun in the area where police searched, the source said.

Qualls turned himself in to workers at D.C. General Hospital's psychiatric unit early Saturday morning, telling them he was responsible for the Colaco slaying, the source said. Qualls's mother is a psychiatric nurse who has worked at D.C. General, the source said. Efforts to reach her and hospital officials for comment yesterday were unsuccessful.

Qualls, who was held without bond, is scheduled to be arraigned today in D.C. Superior Court.

Colaco's family was traveling in Europe at the time he was shot; Colaco had stayed at home so he could work at Children's Hospital, where he was assigned to the biochemistry laboratory on a fellowship from the American Cancer Society. Colaco was one of eight Washington area youths to be awarded the prestigious fellowships.

The apparent random senselessness of the killing "reminded me of 'Little Man' James," the source said, referring to Henry James, who allegedly told his companions that he "felt like killing someone" before shooting a woman on the Anacostia Freeway.

MAN ALLEGEDLY KILLS NEIGHBOR BECAUSE DOG WET ON NEWSPAPER

SANTA CLARA, CA (AP)—A man allegedly shot his next-door neighbor to death because he thought the neighbor's dog had urinated on his newspaper, police said.

Michale DeBaets, 49, was being held Monday at the Santa Clara County jail on suspicion of homicide, police Sgt. Monte Macer said. He was schedlued for arraignment Tuesday.

Macer said DeBaets and his wife, Robin, had an ongoing series of problems with their neighbor, Martin Myslinski, 33, including arguments regarding parking, trees, Myslinski's dog and the DeBeats' cat.

When the couple came home from a three-day trip out of town and found their newspaper wet with what they thought was dog urine, Robin DeBaets placed it in Myslinski's convertible, according to police. Myslinski then threw it back onto the DeBaets' property, and the woman threw it back, police said.

Myslinski and Robin DeBaets then began having a discussion about the matter when her husband came out of the house and allegedly shot Myslinski once in the chest with a .357-caliber revolver, authorities said. He was pronounced dead on arrival at Kaiser Hospital.

Macer said Myslinski's wife was apparently inside when the argument and shooting occurred.

"This is an ongoing type of thing that has gone on for two years and possibly more," he said of the tension between the neighbors. "It's just a silly disagreement that ultimately led to murder. It's a sad situation, really."

Robin DeBaets wasn't charged in connection with the incident, he said.

[From the Providence Journal, July 17,1992]

GIRL SHOT FOR 35 CENTS

BRIDGEPORT, CT.—An 11-year-old girl was shot and injured by a 13-year-old boy who thought she shortchanged him by 35 cents, police said yesterday. The boy had given her money to buy candy Wednesday, but when she returned from a store, he said she was short 35 cents, pulled out a gun and shot her. A bullet was lodged in the girl's neck, and doctors hadn't decided yesterday whether to remove it. The boy, held as a juvenile, was charged with first-degree assault.

[From the Providence Journal]

BOY HELD IN ASSAULT ON PIZZA DELIVERER

(By Diane Bakst)

PROVIDENCE.—A 15-year-old Providence youth was arrested early yesterday in connection with the shooting last weekend of a pizza deliveryman on Suffolk Street.

Maj. Milton R. Wilson said the boy, originally from Roxbury, Mass., and now living in the Chad Brown housing project, is being held at the state Training School pending an appearance in Family Court tomorrow. Wilson said that in addition to firearms charges, the boy faces charges of assault with intent to murder, robbery and attempted robbery.

The boy is accused of shooting Domino's Pizza employee Charles Shuck Jr. of 150 George M. Cohan Blvd. as Shuck was delivering a pizza to a house on Suffolk Street just after midnight on July 25.

Wilson said the shooting appears to be an act of "random violence."

According to Wilson, the boy had been playing basketball earlier that night with three friends, all juveniles from Roxbury. All three youths were armed with 9mm weapons, Wilson said, and apparently the Providence teenager decided he wanted to use his gun.

The youth apparently tried to rob Shuck, but when Shuck refused to give up his money, the youth shot him, then fled on a bicycle, Wilson said. No money was taken, he said.

One bullet entered Shuck's right arm and lodged in his chest, a second bullet hit both of his legs, and a third hit his left hand.

He was listed in satisfactory condition yesterday at Rhode Island Hospital.

Two witnesses later identified the youth as the assailant, Wilson said. He said the witnesses also recognized the bicycle on which the youth fled.

Wilson said police visited Shuck at the hospital yesterday but would not say whether he had identified the youth as his assailant.

Police were traveling yesterday to Roxbury to pursue the three other juveniles, Wilson said.

15-YEAR-OLD FATALLY SHOT IN HIS YARD

(By Santiago O'Donnell and Martin Weil)

A 15-year-old was shot and killed yesterday afternoon in front of his house in a quiet upper Northwest Washington neighborhood that has been largely immune to the wave of violence in much of the city.

The victim, identified as Alain Colaco, the son of Mr. and Mrs. Francis Colaco, was shot several times with a handgun about 4 p.m. Police reported that a man approached him as he was doing yardwork in front of the family's home in the 5400 block of 27th Street NW.

Investigators said they had no idea why the youth, who finished 10th grade this year at Georgetown Day School, was shot. A brief statement released yesterday evening by police said the assailant "for unknown rea-

sons" drew a handgun and fired before running off.

Based on accounts gathered at the scene, police described the assailant as a black man who appeared to be between 30 and 35 years old, about 5 foot 8, with a medium or heavy build and a medium complexion. They said he wore a dark shirt and dark pants. Anyone with information was asked to call the police Crimesolvers unit at 202-393-2222.

The youth's father is director of the Eastern Africa department at the World Bank here, according to one of his associates. The father and mother and Alain Colaco's older brother, Antoine, were in Europe on a trip yesterday and were told of the shooting by telephone, friends said.

Those who knew the youth and his family were stunned by news of the shooting. "These are such outstanding, nice people," said Francis Lethem, a project adviser for East Africa at the World Bank.

Colaco "was a very good student, very attentive [with many] friends," who was "never in any difficulty," said Gladys Stern, the headmistress of Georgetown Day School.

A family friend said Colaco was an excellent soccer player and a member of the school's soccer and track teams. "He was a very good athlete, and soccer was his thing," said the friend, who asked not to be identified.

"This is the most senseless killing I have known," said a neighbor, Phyllis Wetherill. Colaco "was the kind of boy everybody would want to have."

According to neighbors, Colaco, wearing shorts and a cap, had mowed the lawn earlier in the day and at the time of the shooting was pulling weeds from along the front sidewalk.

A few minutes before 4 p.m., Wetherill said, she heard four abrupt noises that sounded like "somebody banging against the garage door." She looked out, saw nothing and then walked out to go to the movies.

As she headed from her house, she saw Colaco lying on the sidewalk with what appeared to be bullet wounds in his chest and head. The Colaco family's housekeeper was at his side.

After learning that help already had been summoned, Wetherill said, she knelt to administer cardiopulmonary resuscitation.

But she said that the youth's throat and nose were filled with blood, and she saw that Colaco "was already dead."

The shooting was "highly unusual," a veteran investigator said yesterday evening. "I can't remember anything like this ever happening in that area."

The family has lived in the neighborhood for the last 15 years, several neighbors said.

[From the Washington Post, Aug. 9, 1992]

D.C. MAN CHARGED IN TEENAGER'S SLAYING

(By Avis Thomas-Lester and Santiago O'Donnell)

A man who walked into a D.C. psychiatric ward early yesterday was arrested and charged with the Friday afternoon slaying of a 15-year-old youth who had been gardening in front of his upper Northwest Washington home.

The suspect, Sean Lee Qualls, 21, of the 6600 block of Piney Branch Road in the Takoma section of the District, apparently did not know the victim, police said. Qualls was questioned for several hours by homicide detectives and made statements, but police officials said they knew of no motive for the slaying of Alain Manuel Colaco.

Yesterday afternoon, police searched the woods near Colaco's home in the 5400 block of 27th Street NW in Chevy Chase and found a handgun they believe was used to shoot him in the head and chest. About 5:30 p.m., several officers executed a search warrant at the suspect's home, a weathered one-story house near the Prince George's County line.

The officers entered the house through windows, and after 15 minutes, they left. An officer refused to say what, if anything, was seized.

A source familiar with the investigation said Qualls told police he had taken drugs Friday.

Qualls had gone to D.C. General Hospital's psychiatric ward early yesterday morning and later was transferred to St. Elizabeths Hospital, the city's psychiatric hospital, where he was arrested at 2 p.m., police said. He was charged with first-degree murder and held without bond pending arraignment tomorrow, police said.

While detectives talked with Qualls at D.C. police headquarters yesterday, relatives from as far away as Toronto and Los Angeles gathered at the Colaco home to lend support to the youth's family.

The community of two-story and ranch-style homes a block from Rock Creek Park has been largely immune from the violence that has troubled other city neighborhoods.

But about 3:55 p.m. Friday, police said, a man had walked up to Alain Colaco, who was pulling up weeds on the front lawn. The man raised a handgun, fired several shots and ran away. At the time of the shooting, the Colacos' housekeeper, Annie Castillo, was in the house with her young child. She ran outside screaming when she realized the teenager had been injured.

Yesterday, several neighbors gathered near the home as officers converged on the lawn about 12:30 p.m. Some feared the police were there to protect the family from another shooting.

But within a few minutes, about 15 officers began searching the area, following a path between the Colaco home and a brick house next door, beating shrubs with their batons. Thirteen minutes after the search began, police found a semiautomatic handgun in the woods at the edge of Rock Creek Park.

Police said information provided by witnesses had led them to the gun.

Francis Colaco, the slain youth's father, looked shaken and his eyes filled with tears when he was told that an arrest had been made. "I don't want to know about that," he said.

Colaco said he had last spoken with his son a week before he died. Colaco, director of the East Africa department for the World Bank, had been on a weeklong business trip in Africa. He had left Tanzania and was on a stopover in Paris en route to meetings in Scandinavia when a close family friend called to tell him that his son was dead.

The youth's mother, Marie-Henriette, was visiting relatives in Amsterdam with the couple's other son, Antoine, 20. She was notified by Francis Colaco and was met by family members when she flew into Dulles International Airport with Antoine yesterday afternoon.

"When I heard, I didn't know what to think," Francis Colaco said. "We are a very close family. He was a wonderful boy, truly. He was a very good-hearted child."

Relatives said Alain Colaco, a junior at Georgetown Day School, had stayed at home during his family's summer trip so he could work at Children's Hospital, where he was one of two students working in the biochemistry laboratory on a fellowship from the American Cancer Society.

Colaco, who was planning a career as a scientist, was one of eight Washington area youths to be awarded the prestigious fellowships. Among his projects this summer was a study on the effects of cholesterol in young people. He also witnessed a five-hour open-heart surgery, his father said.

At a closing ceremony for the program, hours before he died, Colaco made a speech from a neatly typed manuscript that sat on his family's coffee table yesterday afternoon.

The speech read in part: "I think the greatest experience I gained through my stay at Children's was just a basic understanding of how hospitals, and laboratories in general, work. It also provided me with opportunities I would not have had otherwise, such as . . . the opportunity to sit and talk to patients. These are things that will help me no matter what I do in life."

Francis Colaco said, "He loved science, and he loved seeing that operation—he was very enthused about that. Because he was so good at science, people would ask him about studying medicine. He said he could never do that because he would not have been able to dissect animals in biology class. He was against that because he had a great love for animals."

Dr. Steven Soldin, director of clinical chemistry at Children's Hospital and the supervisor for Alain Colaco and a schoolmate during their fellowship, said, "He was a very quiet, serious individual, but he related extremely well to everybody. He was very diligent and performed his tasks very, very well."

But acquaintances said the youth also had a lighter side. He was looking forward to attending a concert next week by the rock band U2. He also was looking forward to a whitewater rafting trip later this month in Colorado, said his uncle, Joseph Colaco. "He's a neat kid, what a neat kid," Joseph Colaco said yesterday as he stood across the lawn from where his nephew was slain.

All day, acquaintances arrived at the home—friends of Alain Colaco's from Georgetown Day and the Sheridan School, which he also had attended; co-workers of his father's from the World Bank; co-workers of his mother's from the International Monetary Fund.

People who knew the youth described him as an honor student and avid sportsman who had begun his own regime of exercise and healthy eating in preparation for the coming soccer season. He also ran track and was named his team's most valuable player in the last school year, Francis Colaco said. He also was involved in his school's theater program, acquaintances said. His only pet, a gray cat named Fritz, was a stray "who adopted Alain and was adopted by Alain" several years ago, his father said. The youth spent the last two summers volunteering at a senior citizens home.

"I think he had a combination of things—he was a very good student, very studious, and he was very much into athletics," Francis Colaco said. His son planned to try out for the U.S. Olympic soccer team.

About 50 people gathered at Georgetown Day School yesterday to mourn the slain youth—girls who remembered him for his politeness, boys who remembered his support on the athletic field, teachers who delighted in his intelligence. About 20 people spoke about their friendships with the youth.

"We didn't try to explain it—I just basically said it is with great sadness that we have invited you here today to share our feelings about this wonderful young man . . . who was admired and appreciated

by all of us," school headmistress Gladys Stern said. "The senselessness of this wanton killing has outraged us and left us with heavy hearts. . . . Random, senseless violence has been foreign to us."

In Takoma, several neighbors said Sean Qualls has lived at the home with his mother for several years, but few people seemed to know them. "They keep to themselves," said John Matthews, a neighbor.

Qualls's mother, whose name could not be learned, was not at the home. Qualls did not answer a reporter's questions at police headquarters.

Mr. CHAFEE. Mr. President, I thank the Chair.

Mr. METZENBAUM. Mr. President, I commend the Senator from Rhode Island for his courageous leadership on this issue. He is addressing himself to an issue that concerns many of us—continued loss of life by handguns in this country. He is attempting to do something about it. It takes a great deal of courage to provide this leadership. I hope he carries on and he has my support.

Mr. CHAFEE. I thank the distinguished Senator from Ohio who has been a loyal supporter of these efforts and indeed has been involved in efforts for handgun control and now my legislation, which is to ban handguns right from the beginning. I commend him.

Mr. President, many people say that what I am attempting to do, by banning handguns is a unique step.

Mr. President, it is not unique to ban handguns. It is unique to have the prevalence of handguns that we have in the United States of America today. No other nation in the world permits this, permits anybody to go out and buy a handgun. They are advertised, as everybody knows in the Washington Post or whatever paper it might be, "handgun specials, $29.95." There are no restrictions in some sections of the country.

Some people point out that Washington, DC, is the slaughter capital of the Nation, and they do have some control. Why does it take place? Anybody in Washington, DC, can go to Virginia and buy a handgun with no restrictions whatsoever. Mr. President, the solution is not for individual entities. Try though they might, a city or a State, to have handgun delays in the purchase, or controls of some type, it cannot be done in that manner. It can only be done with a national ban on all handguns.

Mr. President, this is a theme I will be talking about rather continually, because the horrible incidents continue to come forward. Think of that young boy, 15 years old. How can you be more innocent? Fifteen years old, in his own front yard, minding his business, and along comes, in this instance, apparently a deranged individual who easily obtained a handgun, never had seen this boy before, and he just shot and killed him.

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

The Senate continued with the consideration of the resolution.

Mr. METZENBAUM. Mr. President, I rise in support of the pending resolution regarding Serb atrocities in Bosnia. As we near the dawn of a new century, we are once again confronted with ethnic cleansing—the latest euphemism for racial purification.

Mr. President, I rise in shock; I rise in outrage; but most of all, I rise with a sense of conviction—conviction that we cannot stand idly by if yet another ethnic minority is being systematically obliterated.

Mr. President, the many Senators voicing their rage at Serb atrocities are not naive: We all know that countless atrocities are committed every day, around the world.

We are not naive enough to believe that ethnic and racial minorities have lived in peace since the end of World War II.

We are not naive enough to believe that the United States can impose peace on the globe unilaterally.

No, Mr. President, we are not naive. Surely there is oppression and persecution that should receive the attention of the Senate, the attention of the entire world.

But the fact that suffering in one area goes unaddressed by us does not mean that we should ignore suffering in another.

We cannot ignore the way in which Bosnia is being forced to suffer.

We cannot ignore pictures of gaunt, haggard men, peering from behind rows of barbed wire.

We cannot ignore reports of ongoing, systematic sorting, isolation, and torture of Bosnian Moslems at the hands of Serb attackers.

We cannot ignore the methodical destruction of the Bosnian Moslem community.

For weeks, Serb gunners have rained death and destruction upon Sarajevo. Many are regular forces, and many more are irregular, undisciplined thugs.

They have turned their guns on women and children.

They have even turned their guns on U.N. relief workers.

It seems that they have also turned their guns on the helpless civilian men rounded up and held in the camps.

Mr. President, Bosnian Moslems present no political threat to their Serb neighbors. They clearly do not present a military threat. The Bosnians represent an ethnic threat.

Serbia does not fear Bosnians for political or military reasons.

No, Serbian political and territorial integrity is not threatened by Bosnia.

Mr. President, Serbia fears for its racial integrity. Serbia is taking organized, methodical steps aimed at insuring its racial purity. This is the truly chilling factor in the Bosnia crisis. This is what largely sets Bosnia apart from the many other conflicts raging around the globe.

Mr. President, I support the strong language of this resolution.

The Senate is going on record in support of "collective security". Collective security means that nations act together to quell a common threat. Such threats may be strategic, they may be economic, or they may be moral. They may threaten the moral fibre of the international community in such a way that we simply cannot stand by.

Mr. President, ethnic cleansing poses exactly such a threat to our standards of morality—our standards of decency. We cannot stand mute, we cannot watch passively—because such inaction will remain as a signal to future dictators.

Truly, the world's inaction today will sow the seeds for more pain, and more suffering than that currently gripping Bosnia.

Mr. President, I do not call for an American invasion of the Balkans.

I do not call for the United States to rush ahead of the international community.

However, I do believe that it is time for the nations of the world to act, to use collective force if necessary.

Mr. President, we have been discussing legislation that authorizes nearly $274 billion in spending for our Armed Forces. Our allies in Europe spend similar amounts on their own military forces. It has been said during debate on this resolution that there is nothing Western forces can do short of a full-scale invasion of Yugoslavia. We are reminded of the 37 German divisions that were pinned down by Balkan fighters.

Mr. President, I find it hard to believe that our military experts, working with the international community, cannot devise some plan, some type of action, should all other avenues for relief be closed.

If the gold-plated armed forces of the West and former Soviet bloc can't be employed in a fight against senseless racial purification, then I wonder what fight it is for which we are saving them.

I appreciate the concern about a Bosnian quagmire.

I appreciate the concern for acting under a U.N. mandate. The pending resolution attempts to address these concerns. But let's face it: There is no such thing as a perfect target, and there is no such thing as a perfect conflict.

Mr. President, how many times have we witnessed organized "ethnic cleaning" in this century?

How many times did we quibble when reports of atrocities surfaced?

How many times did we wish we had acted more quickly once the full story was told?

Mr. President, how short are our memories? We should not be urging Security Council action—we should be demanding it.

This resolution should pass overwhelmingly, and the international community should overwhelmingly endorse action in Bosnia.

AMENDMENT NO. 2929, AS MODIFIED

The PRESIDING OFFICER. The hour of 12:15 having arrived, the yeas and nays having been previously ordered, the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] and the Senator from Pennsylvania [Mr. SPECTER], are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 13, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—82

Adams	Ford	Moynihan
Akaka	Fowler	Murkowski
Baucus	Garn	Nickles
Bentsen	Glenn	Nunn
Biden	Graham	Packwood
Bingaman	Gramm	Pell
Bond	Grassley	Pressler
Boren	Harkin	Pryor
Bradley	Hatch	Reid
Breaux	Heflin	Riegle
Bryan	Inouye	Robb
Bumpers	Jeffords	Rockefeller
Burns	Johnston	Roth
Chafee	Kassebaum	Sanford
Cochran	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerry	Shelby
Craig	Kohl	Simon
Cranston	Lautenberg	Simpson
D'Amato	Leahy	Stevens
Danforth	Levin	Symms
Daschle	Lieberman	Thurmond
DeConcini	Lugar	Wallop
Dixon	Mack	Warner
Dodd	McCain	Wellstone
Dole	Metzenbaum	Wofford
Domenici	Mikulski	
Durenberger	Mitchell	

NAYS—13

Brown	Hatfield	Rudman
Byrd	Hollings	Smith
Coats	Kerrey	Wirth
Exon	Lott	
Gorton	McConnell	

NOT VOTING—5

Burdick	Helms	Specter
Gore	Seymour	

So the amendment (No. 2929) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I ask that when the vote is taken on Senate Resolution 330, under the unanimous-consent agreement at 2:15, that it be by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:42 p.m., the Senate recessed until 2:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

The Senate continued with the consideration of the resolution.

STOP, LOOK, AND LISTEN

Mr. HOLLINGS. Mr. President, with regard to Senate Resolution 330, it is time for the Senate to stop, look, and listen.

Yes, I am fully aware of the passions and outrage kindled by scenes of war from Bosnia. I share that outrage. I, too, am revulsed by Serbia's aggression and ethnic cleansing, by Serbia's concentration camps, by Serbia's targeting of innocent women and children in Sarajevo. These are despicable and cowardly acts. There is not a person in America who does not feel an impulse to want to reach out and right all the wrongs in Bosnia and the Balkans.

Likewise, it is perhaps understandable that the Presidential candidates of both parties—caught up in the supercharged atmosphere of the campaign—have called for military intervention on behalf of the besieged Bosnians. Both candidates have urged multilateral action under the U.N. Charter—action that could very well entail the commitment of U.S. forces to combat in the Balkans within a matter of days.

Mr. President, it is exactly in this kind of supercharged atmosphere, with Washington politicians inflamed by passions of the moment, that the Senate must act as a brake and a buffer. It is the institutional duty of this body to meet passion with dispassion. As Washington said to Jefferson, "We pour legislation into the senatorial saucer to cool it."

So let us cool our passions and reflect what is at stake here. Let us not trip willy-nilly into a combat commitment of American GI's in the Balkans. By way of caution, I can cite no better authority than Deputy Secretary of State Lawrence Eagleburger, our former Ambassador to Yugoslavia, who said on Face the Nation this past Sunday, "If we are not careful about how we deal with it, we will find ourselves enmeshed in what I do not apologize to say could become another Lebanon or another Vietnam."

Mr. President, if we learned anything in Vietnam it is that the road to tragedy and quagmire is paved with good intentions. Again in 1983, when President Reagan deployed United States Marines to Beirut, the road was paved with good intentions. Likewise, today, the road to Sarajevo is paved with good intentions.

But let us be under no illusions about this particular road to Sarajevo. Down through history, it is a well-traveled and much-bloodied road. The Ottoman Turks went down that road in 1389 and spent the next five and a half centuries in a bloody struggle with Serbian rebels and guerrillas. Hitler marched down that road in 1941 and for the next 4 years was obliged to commit 37 German divisions to contend with savage resistance by the Serbs and others.

Can the American military traverse the Balkan killing fields more successfully than the Turkish Janissaries and German Wehrmacht? Are we Americans truly prepared for the road to Sarajevo and all that entails?

And for what purpose, Mr. President? Of course we are outraged by the camps and the killings in Bosnia. But there are camps and killings in many countries around the world, from Somalia to Siberia to China to Cambodia to Iraq and tens of other countries. Are we to nobly intervene in each of these terrible conflicts in order to assuage our passions and conscience? If so, Mr. President, then the 82d Airborne Division is going to be one very busy group of soldiers, indeed.

Mr. President, I feel the same outrage and passion for the suffering people of Bosnia that I feel for the Shiites now being massacred by Saddam in southern Iraq or for the millions of starving innocents in Somalia who are no less tragic victims of war. But we do not intervene militarily in southern Iraq or in Somalia for a simple reason: There is no direct national interest of the United States at stake to justify the shedding of American blood in those godforsaken lands. And that some prudent test must apply in Bosnia: There is no United States national interest at stake there.

Mr. President, I must vote against Senate Resolution 330. I refuse to send American boys to fight and die on Europe's most ancient and notorious killing fields for a purpose that is ill-defined and open-ended. I don't know what size contingent of United States troops the President envisions sending to Bosnia. But if those troops are being sent there to resurrect Bosnia, it will be too few, and if they are being sent there to die, it will be too many.

THE RIGHT APPROACH TO PEACE MAKING IN YUGOSLAVIA

Mr. McCAIN. Mr. President, no one could deplore the atrocities taking place in Bosnia, and in other parts of the former Confederation of Yugoslavia more than I do. Racism is insane at any time, but the situation in Bosnia is racism that has been elevated to murder. A kindred people is being murdered in the name of purification over religion and language. Women, children, and babies are being murdered for reasons the world should have long ago outgrown.

Also contributing to our revulsion over the repression in Yugoslavia is our bitter disappointment that amidst the breathtaking pace of democratization throughout Eastern Europe, the promise for freedom for the nations of Yugoslavia once seemed so close at hand. Yet, now, the world's hopes for freedom in that former Confederation have been dashed by reactionary Communists in Belgrade and the violent despotism of Serbian officials.

As the world's leading democracy, the United States must serve the cause of freedom whenever it is opposed by racism, imperialism, and the violent ambitions of tyrants. Such is the case in Bosnia today. And, I submit, the United States, under the leadership of President Bush, has taken strong action to defend the rights of those poor people and attempt to cease the atrocities which Serbia has inflicted on them. In a few moments, I will detail those actions.

I do, however, wish to warn this body that we cannot resolve this conflict alone, nor can we help Bosnia and the other nations of Yugoslavia prevail in their struggle against Serbian hegemony alone. I believe that President Bush is right in insisting that such goals cannot be obtained without the collective action of the entire civilized world, most especially from the democratic States of Europe, who share our concerns for human rights, and whose vital interests are even more directly threatened by the violence in Yugoslavia.

My liberal friends have through the years denounced almost every exercise of U.S. military force. They always premised their denunciations on the observation that the United States is not the world's policeman. I want to point out to them now that the world does not confront this tragic situation in Yugoslavia because the United States failed to act. We confront it because Europe failed to act. And I wish to repeat to them their frequent advice: The United States is not the world's policeman.

The President believes that the decision to use U.S. force in a crisis must be carefully and thoroughly deliberated, and that the costs and objectives of such action be completely understood before it is undertaken. The President's opponents may believe the contrary. But as the President correctly observed, it is he, not Bill Clinton, who must make the decision to send America's sons and daughters into harm's way. And before he does so, he will be certain such action is necessary, that the goal is achievable, and that all due precautions for the safety of our troops have been taken. The President understands the costs of military action from personal experience. Bill Clinton does not.

Bosnia is part of Europe. It is in what is supposed to be a civilized part of the world. It is part of a community of European nations which are supposed to be in the process of unification, and which are supposed to be committed to peace, to democracy, and to human rights. Mr. President, this was supposed to be the year of Europe. This was supposed to be the year that Europe emerged as a new economic superpower.

Where is Europe? We have seen Lord Carrington act as a representative of Europe to negotiate a resolution of this crisis, but the extent of his support from his own government is unclear. We have seen Germany recognize the sovereignty of some Yugoslavian nations, but what evidence of leadership have they demonstrated beyond that action? We have seen President Mitterand go to Yugoslavia, and to send limited numbers of peacekeepers into the conflict which represents a beginning at least for Europe. But where is the European Community? Where is the Western European Union? Where are Sweden and Switzerland—nations that always seem willing to draw moral lines when there is no real cost for them?

Second, Mr. President, if we are to realistically seek an end to the conflict, we will need to field a United Nations peacemaking force that is composed primarily of European elements and that has strong and decisive European support. Europe is the only place from which we can draw the land forces, police forces, emergency workers, and aid to carry out a successful peacemaking effort and then keep that peace.

Mr. President, we are not talking about firing a few shots or dropping a few bombs. We are not talking about some minor effort that will last a few days. We are talking about hundreds of thousands of people who have been thrust into a massive civil war based on hate and the worst kind of inhumanity.

Even if we can halt today's atrocities with limited military action, and I have good reason to doubt that fact, we will need peacemaking forces on the ground. We will need sufficient force to suppress a guerrilla war, we will need sufficient force to allow people to live in security, and we will need sufficient force to allow reason to heal a divided people.

Mr. President, no one can guarantee an end to this tragedy without a major European presence and without some European show of unity and will—at least by Europe's major powers.

This is why, Mr. President, I believe that we should not be concentrating our pressure on President Bush. We should be exerting our influence in Europe and in the Security Council of the United Nations which is precisely what the President has done. We should praise those Europeans who have had the courage to act, but we should criticize the current temporizing of some Europeans, and the utter inaction of Europe's ever-moralizing neutrals.

Third, Mr. President, I want to issue a warning. I believe in airpower. I believe there are times in which airpower can be successfully used to defend freedom and protect human rights. The key to the successful use of force, however, is that the means must be tailored to the contingency in both political and military terms.

We learned the hard way in Korea, Vietman, and Lebanon that it is one thing to defeat a regular military force in the field and another thing to intervene in a guerrilla or popular war. In simple technical terms, it can take us several fighter bombers to locate and kill a single artillery piece. We can never be sure of locating and killing mortars and rocket launchers.

There is no way to be surgical about air strikes against scattered infantry forces or guerrillas mixed in with civilian populations. Vietnam has taught us that you need massive amounts of airpower, you do immense amounts of damage to everything around your target, and you often fail. No one has ever stopped a major guerrilla war through airpower alone, and no one ever will.

We may be able to force some kind of pause, or make the atrocities less visible, if we start the equivalent of a war against Serbia, and strike at the power base of the dictator that has driven this war to its present level of tragedy. We are, however, now hearing calls for air strikes against the armed forces of an entire country, and not just against the irregular forces that threaten Bosnia's civilians today.

We may end up involving ourselves in an escalating conflict where more civilians suffer. We may see the kind of pause we saw in Vietnam, where a totalitarian regime backs down for a while, and then returns to new atrocities later. We may simply see Serbian extremists go on fighting, or inflicting atrocities on Bosnians that are less visible to the world.

We can certainly support decisive European and United Nations action, just as Europe and the United Nations supported us during the gulf war. We must certainly support President Bush in pushing the United Nations and European action. We can continue to assist in efforts to assure the delivery of hu-

manitarian assistance to the suffering population of Bosnia. What we must not do is try to return to 19th century gunboating, or confuse our carefully planned and measured success in Desert Storm, backed by sufficiency of force of every kind, with the situation in Bosnia and the rest of Yugoslovia.

Only sheer luck can make U.S. airpower the answer to this crisis. It is far more likely that we will be confronted with the choice between failure or steadily escalating our involvement and having to send in troops. If we do, the model we should remember is Lebanon, not Kuwait. Even if we are seen as liberators for the moment, we will be in the middle of a civil war based on racism and hate.

Our men and women in uniform have proved their courage and willingness to take losses in a good cause. The fact is, however, that the 235 men who died in the Marine Corps barracks outside Beirut did not bring peace. They died in a good cause, but their deaths did not bring peace nor an end to suffering.

When I was a Member of the other body, I opposed the continued presence of American Marines in Lebanon, a presence that ended in terrible tragedy. The reasons I cited for my opposition then were the criteria for military involvement that Gen. Maxwell Taylor had once elaborated. "First, the objectives of our involvement must be explainable to the man in the street in one or two sentences. Second, there must be clear support of the President by the Congress for the involvement. Third, there must be a reasonable expectation of success. Fourth, we must have the support of our allies for our objectives. And finally, there must be a clear U.S. national interest at stake."

I did not believe that all of General Taylor's criteria were met by our involvement in Lebanon. I do not believe they would all be met by unilateral and immediate United States military action in Yugoslavia. Before I will ask American men and women to risk their lives in this conflict, all of those requirements must be fully and clearly fulfilled.

Mr. President, there are good reasons why President Bush has encouraged action within the United Nations. There are good reasons why he has drawn on his vast experience in foreign affairs, and his admirable understanding of the consequences of using military force to pursue the course of action he has chosen. The focus of our attention should be on forcing all the nations which have a stake in European peace, and a commitment to democratic values, to involve themselves in a concerted attempt at resolving the tragedy in Yugoslavia. We should convince our allies that it is their responsibility to avoid further repeating their failures of the 1920's and 1930's.

Finally, Mr. President, I would like to remind both our European allies and the President's critics, that the United States has not failed to act or to show the kind of leadership that is rightly expected of the world's leading democracy. Most recently of course, the President has announced his intention to seek a U.N. Security Council resolution that would authorize appropriate, collective and not unilateral action to assure the delivery of humanitarian assistance to Bosnia.

I have prepared a short chronology of the actions, the Bush administration has taken prior to the President's statement yesterday to deal with this crisis. I believe that anyone who questions our approach to this crisis should examine that record, and then consider whether rushing forward to use force without the support of Europe or multinational action by the United Nations is the right approach. I also ask unanimous consent that a detailed record of our humanitarian assistance to the struggling nations of Yugoslavia prepared by the United States Agency for International Development be included in the RECORD at this point, should anyone persist in doubting the President's commitment to these people.

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

Mr. President, the U.S. has already taken the following actions:

On September 25, 1991, speaking before the United Nations Security Council, the Secretary stated that, "the Government of Serbia and the Yugoslav federal military bear a special and indeed growing responsibility for the grim future which awaits the people of Yugoslavia if they do not stop the bloodshed and reverse the violent course now being pursued." The Secretary underscored that this policy "represents a direct threat to international peace and security." The Secretary went on to say that "we must collectively protect as well against the spread of this cycle of violence to yet another Yugoslav Republic. There can be no mistaking that the fate of Bosnia-Hercegovina also hangs in the balance."

The Secretary's statement was a clear warning of the direction of Serbian aggression. Moreover, it was made at a time when others were far more reticent in voicing concerns about the developing crisis. The Secretary's remarks helped galvanize support for a UN arms embargo which was adopted that same day.

During meetings with EC leaders in march 1992, the U.S. took the lead in pressing for recognition of Bosnia-Harcegovina and Macedonia. Bosnia-Hercegovina was recognized by the U.S. and the EC in April.

Over the Easter weekend, we provided the first airlift of humanitarian relief to Sarajevo.

On May 16, we advised the Serbian leadership that the U.S. would deny JAT its operating authority in the U.S. if Belgrade did not provide reliable assurances that relief convoys would be allowed to enter Sarajevo and that the airport would be returned to Bosnian civilian control.

On UN sanctions, the U.S. strongly and successfully pressed its allies to adopt a comprehensive set of economic sanctions rather than to pursue a gradual approach. The U.S. also took the lead in pressing for the inclusion of an oil embargo. It was largely as a result of U.S. efforts that a prompt, comprehensive embargo was adopted.

On May 21, we advised our friends and allies that we planned to announce the withdrawal of military attaches from Belgrade, close two "Yugoslav" Consulates General, and implement a partial drawdown of our staff and terminate JAT's operating authority in the U.S. We strongly urged other governments to take similar steps in an effort to deter Serbian aggression.

On May 25, we announced the closure of the "Yugoslav" Consulates General in New York and San Francisco and the expulsion of two "Yugoslav" military attaches. We subsequently undertook a considerable drawdown of our staff at Embassy Belgrade. In all of these measures, we have been well in front of our allies.

In May 1992, the U.S. led efforts to suspend Serbia/Montenegro from participation in decisions affecting Yugoslavia at the CSCE.

On June 23, the Secretary told the Senate Foreign Relations Committee we were witnessing a humanitarian nightmare in Bosnial. He announced that we would no longer accept representation from Belgrade at ambassadorial level and would close the Chicago Consulate General (both steps have since been taken). The Secretary also said we would broaden our efforts to suspend Serbia and Montenegro from participation in the international community.

In July 1992, under the leadership of the U.S. Delegation, the CSCE Committee of Senior Officials extend the suspension of participation by "Yugoslavia" (Serbia-Macedonia) in CSCE activities until October 14.

On July 16, 1992, NATO agreed to a U.S. proposal and initiated monitoring of the Adriatic for possible violations of UN sanctions against Serbia-Montenegro with NATO STANAVFORMED naval task force in cooperation with WEU naval task force.

On July 25, 1992, at a meeting of NACC representatives in Brussels, Romania invited member countries to send monitors to Romania to oversee compliance with UN "Yugoslav" sanctions at the suggestion of Secretary Baker. We are in the process of working with the Romanians and NATO to implement this effort.

We are making demarches in Belgrade, Zagreb and Sarajevo demanding that the ICRC be given immediate an unimpeded access to sites which are alleged to be detention camps. We are asking the UK presidency to raise this issue with member states and urge them similarly to request access on behalf of the ICRC. We are also asking the Russians to use their influence with the Serbs to this same end.

Mr. President, no nation on Earth has spent more, has suffered more to secure the success of liberty everywhere in the world than the United States. Because the American people expect no less, the United States has undertaken to help the people of Bosnia and the other struggling nations in Yugoslavia. The President, as evident by his actions to date, is committed to a course that is intended to bring a resolution to the conflict, and the liberation of nations whose God-given rights have been brutally repressed. His leadership has been forceful, and what his critics have failed to see, offers the best chance of alleviating the suffering of these afflicted peoples, and providing them the opportunity to live peacefully in freedom.

[Agency for International Development, Office of U.S. Foreign Disaster Assistance, July 21, 1992]

Note: *New information since the last situation report, dated June 19, is in italic.*

FORMER YUGOSLAVIA—CIVIL STRIFE

Date: June 1991 and ongoing.

Location: All republics of the former Yugoslav nation are affected, but fighting has been most intense in Croatia and Bosnia-Hercegovina.

No. Dead: An estimated 10,000 in the six-month conflict (June 1991–January 1992) in Croatia, *7,561 dead and 27,412 wounded* in the ongoing struggle in Bosnia-Hercegovina *(media quote of Bosnian officials on July 5).*

No. Affected: *Some 1.75 million displaced people and refugees within the former Yugoslavia (UNHCR report of July 7) (This does not include the displaced who have fled to other countries.)*

Total USG Assistance: *$51,052,595.*

BACKGROUND

Since June 1991, warfare between the nations of the former state of Yugoslavia has taken a severe toll in lives, displaced large populations, and inflicted enormous damage to property and infrastructure.

Six-months of fighting between Serbs and Croats followed the June 1991 declaration of independence by Slovenia and Croatia. A cease-fire was agreed to in January 1992 and a U.N.-peace-keeping force was deployed in April to areas of Croatia still controlled by Serbs.

Inter-ethnic fighting flared anew in the still smoldering Yugoslav war after the republic of Bosnia-Hercegovina (B–H) voted for independence on February 29, 1992. The majority of the republic's population, made up of Muslims (44%) and Croats (17%), voted in favor of independence. Most ethnic Serbs (31% of the Bosnian population) boycotted the independence vote, while Bosnian Serb leaders called for a separate Serbian republic of Bosnia and Hercegovina. Since early April 1992, Bosnian Serb secessionists backed by the Yugoslav military, Serbian paramilitary groups from Serbia, and by Serbia have applied force to create such a Bosnian Serb republic and to expel all non-Serbs from its territory.

The European Community (EC) recognized the sovereignty of Croatia and Slovenia in December 1991, and of Bosnia-Hercegovina in April 1992. The United States announced recognition of all three republics in early April. Macedonia, a fourth former Yugoslav republic that has also declared its sovereignty, has not yet received widespread international recognition. Serbia and Montenegro, which remain allied, have proclaimed the establishment of a new, truncated Yugoslav state, whose claim to be the continuity of the former Yugoslavia is rejected by the U.S. and has not been generally accepted by U.N. members.

GENERAL SITUATION

Despite recent cease-fire agreements, fierce fighting has continued in the capital Sarajevo and other parts of B-H. The stream of displaced people seeking refuge in other republics and other European countries has grown steadily. Civilians still remaining in Sarajevo and other B-H cities and villages have been cut off from desperately needed aid by barricades and intensified fighting.

The UNHCR, *UNICEF, ICRC,* and others have managed to truck supplies to accessible areas in B-H; however, the relief effort has been hindered by security concerns. The ICRC and UNHCR temporarily suspended operations in Sarajevo after an ICRC staffer was killed in an attack on a convoy in May. *Both organizations have resumed operations in B–H. ICRC will concentrate activities in Bihac. Bania Luka, Mostar, Zenica, and other affected towns and will also provide assistance to 19 hospitals in B–H. To supplement the airlift into Sarajevo, the UNHCR is trying to establish permanent land corridors into the besieged capital.*

Critical to the delivery of desperately needed relief supplies for the 300,000 or more residents of Sarajevo and suburbs trapped by the fighting has been the reopening of the Sarajevo airport. Serb forces agreed on June 5 to turn over control of the airport to the U.N. Protective Forces (UNPROFOR), and a team of U.N. military observers from existing peacekeeping forces in Croatia was sent to Sarajevo. Fighting continued, however, between Serbs militiamen and Bosnian Defense Forces in the vicinity of the airport, prompting world capitals to consider a forced military intervention. On June 26, U.N. Secretary General Boutros Boutros-Ghali issued an ultimatum to both sides that a cease-fire must be in effect within 48 hours, and the U.N. Security Council voted to send a 1,000 member Canadian infantry battalion to Sarajevo to shore up security at the airport. The U.N. raised its flag at the airport on June 27, and the first planes of a French relief airlift, also carrying 125 French marine commandos, arrived at the Sarajevo airport on June 30. EC and U.S. military flights followed, beginning June 2 in the U.N.-sponsored relief effort. Other countries participating include the United Kingdom, Denmark, Canada, Germany, Greece, Italy, Kuwait, Turkey, Netherlands, Belgium, Norway, Spain, Tunisia and Saudi Arabia. Zagreb is the staging point for the U.N. flights. Relief materials reaching Sarajevo are delivered to Non-Governmental Organizations (NGOs) for distribution or placed in temporary storage; however, the security situation hampers the distribution of relief goods. Shelling continues near the airport and elsewhere in the city. The siege also continues in Gorazde and other towns in B–H, and the exodus of non-Serbs continues.

Cease fire violations have also continued in Croatia. Dubrovnik came under attack on May 29 for the first time in six months, *and Vinkovei was attacked on June 15.* Croatia has appealed for assistance to care for refugees from B–H.

To protest Serbia's aggression against Bosnia-Hercegovina, the United States and EC countries recalled their ambassadors from Belgrade in mid-May. On May 30, the U.N. Security Council voted to impose economic sanctions on the Yugoslavia federation of Serbia and Montenegro.

ASSISTANCE PROVIDED BY U.S. GOVERNMENT

In August 1991, an inter-agency U.S. Embassy team visited the first people displaced by hostilities on the Croatian front. They reviewed efforts and plans for the care of those displaced with social welfare. Red Cross, and voluntary agencies in Croatia, Vojvodina, and Serbia and shared their findings with the international relief agencies.

In September 1991, the State Department's Bureau of Refugee Programs (RP) allocated $1 million to ICRC for aid to displaced persons.

On Nov. 26, 1991, U.S. Ambassador Warren Zimmermann issued a disaster declaration, authorizing $25,000 in emergency assistance. The funds were used to purchase 11,000 kilos of high protein weaning foods to be distributed by the Red Cross of Bosnia-Hercegovina to infants of all ethnic groups.

From Dec. 5 to 21, 1991, a U.S. assessment team, comprising representatives from the U.S. Embassy, A.I.D., and the International Rescue Committee (a New York-based PVO), traveled to Bosnia-Hercegovina, Croatia, Vojvodina and Serbia to observe the situation first-hand and determined what further U.S. assistance would be appropriate.

President Bush announced on Dec. 17 that the United States would provide an additional $7 million to help meet the urgent needs of displaced people. This contribution, authorized from RP's Emergency Refugee and Migration Account (ERMA) included the following grants: $2 million to ICRC and $3 million to UNHCR in January 1992 and $1 million to UNICEF and $1 million to UNHCR for Bosnian relief in April 1992.

Two military flights authorized by the Department of Defense carried excess DOD medical supplies and food to the war victims in July and December 1991. The first flight landed in Serbia and the second went to Vienna for overland shipment to the affected areas.

In January, the International Rescue Committee sent a three-person team to Yugoslavia, under an OFDA grant arrangement, to work with local and international organizations in the affected areas. Their objectives were to monitor the distribution of donor resources, facilitate donor coordination and logistics, provide information to U.S. PVOs interested in assisting the relief effort, and to report on the impact of USG-provided resources to the relief effort.

A.I.D.'s Europe Bureau sent a three-person Project Hope team to the former Yugoslavia from April 5 to 9 to assess the medical needs in Bosnia-Hercegovina. Based on the team's findings, Project Hope arranged for the shipment of *$3.0* million worth of medical supplies. *One-half of the medical shipment was airlifted to the region on June 15, and trucked to warehouses in Zagreb. The balance is being shipped by ocean freight.* As the security situation in Bosnia-Hercegovina permits, the medical supplies are being transported by Medecins sans Frontieres/Holland (MSF/H) to affected populations in that region. *A.I.D. Europe provided $600,000 and leveraged $2.4 million of the $3 million shipment.*

FHA/OFDA funded five U.S. Air Force C-141 flights to Sarajevo on April 18–19. The airlifts carried 10,800 wool blankets from the OFDA stockpile in Leghorn, Italy; 90,000 meals-ready-to-eat (MREs) from DOD stocks; and over $200,000 worth of medicine and supplies from Amsterdam under an OFDA grant to MSF/H.

On May 16, a DOD C–130 and two C–141s, carrying 40 tons of MREs (about 55,000 meals) landed in Zagreb. The food stocks were placed in UNHCR storage facilities and will be distributed to displaced people temporarily housed in and around Split, a city located southwest of Sarajevo on the Adriatic sea.

OFDA also arranged with DOD to truck 155 sea containers of MREs (120 from Camp Darby in Livorno, Italy, and 35 from Rotterdam, the Netherlands) to Zagreb. The cost of the transport is $775,000, and the 3,214,080 MREs are valued at $13,659,840. The DOD road convoys began arriving in Zagreb on June 13. *All 155 truckloads had arrived in Zagreb by July 7. Some of the MREs are being airlifted to Sarajevo; others have been transferred to Split. DOD has committed an additional 80 sea containers of MREs, valued at about $7 million for future delivery as needed.*

RP announced additional contributions totaling $9 million in response to the latest international appeals: $6 million to UNHCR and $3 million to ICRC. This brings RP's total contribution to date to $17 million. OFDA sent an assessment team to the former Yugoslavia the first week of June to identify needs of displaced persons in Macedonia at the request of local authorities,

and determine an appropriate USG response. The team included an OFDA disaster operations officer, an assessment/logistics expert, and representatives of the International Rescue Committee, the Centers for Disease Control, the Office of Food for Peace, and USAID/Europe Bureau. The logistics expert assessed the logistical and storage capacities of Zagreb and Split in Croatia. The team leader joined a USG delegation in Brussels to attend a G-24 meeting on June 22, where the international community discussed the current emergency in the former Yugoslavia. The OFDA team identified a range of needs for the consideration of the international donor community to assist both the hard-pressed Government of Macedonia and the refugees from B-H seeking relief assistance in the country.

Following the assessment in Macedonia, OFDA arranged with UNICEF to procure $66,000 worth of medicine and medical supplies for distribution there. In late June, OFDA sent two consultants to the former Yugoslavia, one to assist with the distribution of medical supplies in Macedonia and the other to monitor the delivery and distribution of MREs arriving in Zagreb. OFDA also sent a consultant to work on the subgroup of logistical and management experts in Brussels, in response to a G-24 request for personnel.

In July, OFDA purchased 10 medical kits from UNICEF, each kit containing essential medicine and disposable medical supplies sufficient to serve 10,000 people for three months. The kits and transportation were valued at $82,240.

The U.S. military launched Operation Provide Promise on July 3, flying C-130 Hercules transport planes to Sarajevo from Rhein Main Air Force Base near Frankfurt, Germany, carrying logistics equipment and MREs. DOD is also trucking powdered milk, valued at $165,000, to Macedonia. DOD has committed $1,000,000 for the airlifts.

A.I.D.'s Office of Food for Peace (FHA/FFP) has approved the provision of $6,650,000 worth of wheat flour, lentils, peas, vegoil, corn-soy milk, and wheat-soya blend for all areas of the former Yugoslavia, as well as $2,700,000 worth of wheat for Macedonia. The commodities are being programmed for October 1992 delivery. The cost includes ocean freight and internal transport.

Summary of USG assistance

The source of funding and the primary recipient are indicated in parentheses:	
Ambassador's Authority (OFDA) (B-H)	$25,000
Travel of assessment team member (Dec. 1991) (OFDA) (all areas)	6,198
Grants to ICRC, UNHCR, and UNICEF (RF) (all areas)	17,000,000
Grant to IRC (OFDA) (all areas)	243,013
DOD airlifts (OFDA) (B-H)	125,000
Value of 10,800 wool blankets (OFDA) (B-H)	45,684
Travel of Project Hope Medical Assessment Team (Europe Bureau) (B-H)	15,000
Value of 90,000 MREs (DOD) (B-H)	383,625
Grant to MSF/H for medicine (OFDA) (B-H)	206,057
Value of May 16 airlifts and food (DOD) (B-H)	200,000
DOD truck transport of MREs and of powdered milk to Macedonia (OFDA) (B-H)	775,000
Value of 3,214,080 MREs (DOD) (B-H)	13,659,840
Travel of OFDA assessment team to Macedonia (June 1992) (OFDA) (Macedonia)	45,618
Travel of Europe Bureau assessment team member to Macedonia (Europe) (Macedonia)	4,900
Value of medical supplies being delivered by Project Hope (includes $600,000 funded by Europe Bureau and $2,400,000 leveraged) (B-H)	600,000
Travel of consultant for logistics support in Macedonia (June 1992) (OFDA) (Macedonia)	10,072
Travel of consultant for logistics support in Zagreb (June 1992) (OFDA) (B-H)	20,010
UNICEF procurement of medicine (OFDA) (Macedonia)	66,000
Travel of logistics expert to G-24 (OFDA) (B-H)	24,338
Value of 10 UNICEF kits and transport (OFDA) (B-H)	82,240
FFP commodities and transport (FFP) (all areas)	6,650,000
FFP wheat and transport (FFP) (Macedonia)	2,700,000
Value of DOD powdered milk (DOD) (Macedonia)	165,000
DOD commitment of additional MREs (DOD)	7,000,000
DOD commitment for Sarajevo airlifts (DOD) (B-H)	1,000,000
Total FHA/OFDA	1,674,230
Total RP	17,000,000
Total DOD	22,408,485
Total Europe Bureau (funded)	619,900
Total FFP	9,350,000
Total	51,052,595

ASSISTANCE PROVIDED BY U.S. VOLUNTARY AGENCIES

Adventist Development and Relief Agency—is sending food, blankets, medicine, baby food, and dried milk to Zagreb for distribution through 45 centers in Croatia.

American Jewish Joint Distribution Committee—is providing unspecified emergency assistance.

American Red Cross—has sent 2,500 food parcels to ICRC for distribution in B-H.

AmeriCares—has flown 11 airlifts of relief supplies to the former Yugoslavia. A portion of the supplies will be distributed to refugees from B-H in Hungary. The supplies are valued at $21,400,000.

Baptist World Alliance—has provided funds for relief to the Baptist Union of Croatia, as well as food, seeds, and financial aid through other organizations.

Brother's Brother Foundation (BBF)—has sent or committed *35 ocean-going containers* of food, medical supplies, and seeds, all valued at *about $3,000,000*, to Croatia and other regions of the former Yugoslavia. Consignees are the Baptist Union, the Serbian Orthodox Church, and the Catholic Church of Croatia.

Church World Service (CWS)—distributed $70,000 worth of medicine and blankets with funds raised by a September 1991 appeal. CWS has issued a second appeal.

Interchurch Medical Assistance—has supplied medicine and medical supplies through their member and associate-member programs.

International Rescue Committee—sent a 3-person team, funded by an OFDA grant, to the conflict areas to work with local and international agencies in the relief effort.

Lutheran World Relief—approved a $50,000 grant for emergency supplies for Croatia and B-H.

MAP International—has provided over $7,000,000 worth of medical supplies for Croatia, B-H, and Macedonia. MAP has also delivered 12 WHO emergency kits to Croatia and Belgrade.

Project Hope—fielded a 3-person team from April 5 to 9, funded by an A.I.D. Europe Bureau grant, to determine medical needs in Bosnia-Hercegovina. *On June 15, Project Hope shipped $3,000,000 ($600,000 funded by A.I.D. bureau) worth of medical supplies to Medecins sans Frontieres in Zagreb for distribution in B-H. DOD provided air transport to Graz for one-half of the shipment.*

World Relief—contributed $25,000 to the Evangelical Church of Croatia to provide soap, diapers, and toiletries for refugee families.

World Vision Relief and Development—is implementing a $60,000 project that provides food, blankets, beds, medicine, and a truck through the relief arm of the Evangelical Church of Croatia.

ASSISTANCE PROVIDED BY THE INTERNATIONAL COMMUNITY

INTERNATIONAL ORGANIZATIONS

European Community (EC)—has attempted to mediate the conflicts by sending observers to crisis areas and sponsoring a peace conference. The EC earmarked about $23,750,000 for relief operations, and, on May 11, announced a further contribution of $37,500,000 to the U.N. program. *A further aid package of about $150,000,000 for B-H was announced on July 2.* The EC contributions are in-kind as well as cash.

Federation of Red Cross and Red Crescent Societies—works with local chapters in non-conflict areas to complement the work of ICRC and UNHCR.

International Committee of the Red Cross (ICRC)—as a neutral intermediary, has worked in Yugoslavia since mid-1991, acting in its traditional role of providing protection and emergency medical assistance, tracing missing persons, and disseminating information on international humanitarian law. The ICRC has distributed thousands of family parcels donated by Red Cross national societies, as well as medical supplies to hospitals. A first ICRC appeal was launched on Sept. 9, 1991, and a revised appeal was issued on April 21, 1992.

OPEC—provided $100,000 for relief supplies for B-H to be administered by UNICEF.

UNICEF—has carried out a program in Bosnia-Hercegovina, providing milk for infants, vaccines, and emergency health kits to meet the needs of women and children. UNICEF donated $250,000. Under a new U.N. appeal, UNICEF plans to focus on information programs, supplementary feeding programs, assistance to sick children, and vaccination programs.

UNHCR—began a program complementing that of ICRC in November 1991. Working with people displaced by the war, UNHCR distributes food parcels and domestic items and provides social services and transport and logistics assistance. UNHCR/UNICEF/WHO launched a joint appeal on Dec. 3, 1991, for humanitarian assistance programs in Yugoslavia and revised the appeal in April 1992. A joint U.N. appeal in May for over $165 million superseded the April appeal.

WHO—sent a mission to assess health and sanitation needs. WHO plans a program to provide support for war traumatized children, to rehabilitate health services, to provide essential drugs, and to monitor the impact of the conflict on existing health infrastructure. WHO has provided UNHCR with health kits which will provide basic medical care for 20,000 people for three months. WHO has developed a health strategy, employing a team of specialists, to look at health problems in the former Yugoslavia.

GOVERNMENTS

Australia—*about $577,000 in emergency funds*
Austria—$172,413 to UNHCR
Canada—$581,197 to UNHCR and $127,226 to ICRC
Denmark—*$1,108,475* to UNHCR
Finland—*$1,178,832* to UNHCR
France—*$456,204* to UNHCR and $44,964 to ICRC
Germany—$928,000 to UNHCR and $443,425 to ICRC
Italy—has allocated a total of about $117,000,000 for emergency assistance to refugees from the former Yugoslav republics.
Iran—sent 15 truckloads of food and medical supplies for B-H
Japan—$436,730 to UNHCR
Liechtenstein—$6,579 to UNHCR
Luxembourg—$88,235 to UNHCR
Netherlands—$2,111,111 to UNHCR
Sweden—*$4,941,356* to UNHCR, $250,000 to UNICEF, and $80,000 to WHO
Switzerland—$27,572 to ICRC
Thailand—$4,000 to UNHCR
Tunisia—$2,000 to UNHCR
United Kingdom—$266,729 to UNHCR and $63,380 to ICRC

NON-GOVERNMENTAL ORGANIZATIONS

European UNICEF Committees—$572,584
German Foundation for UNHCR—$62,500

UNHCR

Soroptomist International (Japan)—$16,030
Stichting Vluchteling (Netherlands)—$50,000
Private donations (Japan)—$4,819 to UNHCR
Private donations (Switzerland)—$194 to UNHCR

DAYTON MAXWELL,
Acting Director, Office of U.S. Foreign Disaster Assistance.

THE RIGHT APPROACH TO PEACE MAKING IN YUGOSLAVIA

(By Senator John McCain)

Mr. President, I am now sending an amendment to the desk and ask for its immediate consideration.

My amendment is very simple. It makes it unambiguously clear that the Congress must vote to approve any U.S. use of military force in the former Republic of Yugoslavia, just as it voted to approve the use of force in the Gulf.

My reasons for this amendment are twofold. First, I do not want U.S. men and women to be committed to even the most limited use of force, even as part of a UN approved multi-national peace-keeping mission, unless the Congress is firmly on record as having taken full responsibility for the outcome of the course of action involved.

We must never, never, again vote the equivalent of the Tonkin Gulf resolution. We must never casually, under the emotional and political pressures of the moment, start a course of action we are not fully and formally committed to supporting.

Second, I have deep reservations about taking words on this issue that can lead to our taking action without fully understanding the situation we are interfering in.

Mr. BOND. Mr. President, the situation in Bosnia and Hercegovina has captured the world's attention. The killings and other atrocities that have been taking place there for a long time have finally been brought home by the graphic pictures we have seen in recent days.

We cannot simply stand by and watch these horrors without taking action. The United States, as the leader of the free world, has an obligation to take a leadership role in getting the United Nations to make clear to all sides in the conflict that we will not let these actions go unpunished.

The doctrine of ethnic cleansing is repugnant to us all and it brings to mind the actions of the Nazis during the thirties and forties. We must express our outrage. But that is not enough, we must also take action to ensure that relief supplies and aid get through to the innocent civilians—the women and children—who are being slaughtered, raped, and abused every day.

On Sunday, I had the opportunity to meet in St. Louis with representatives of the National Association of American Muslims and other groups. All of the people I spoke with had friends or relatives in the areas of the fighting. Their pain over the current situation was obvious, and the message they delivered to me was clear—the United Nations must act to provide humanitarian relief, to bring the heavy artillery under control, to inspect the camps and to bring the guilty to justice.

As we speak on this floor today, the U.N. Security Council is considering resolutions to address the situation in the former Yugoslavia. Those resolutions are the work of our Government along with the French, the British, and others. I believe the President and the U.N. Security Council are on the right track with the pending resolutions. We need to provide humanitarian assistance to the victims of the fighting in Bosnia. And, although we all hope that military action will not become necessary, we need to make clear our resolve to use it if necessary to provide that aid.

As I stated earlier, the United States has a role to play in this matter, but we must make clear to everyone—especially our European allies—that we will not allow this to become a U.S. problem. The Germans, French, British, and others have just as great an interest—if not greater—in resolving the fighting in the region, and they have an obligation to act accordingly.

It is also important, Mr. President, that the Security Council make clear several other points. First, that the International Red Cross and other monitoring groups must be given access to all camps in the region so that independent inspectors can determine what has been taking place there.

Second, we must make it clear that those guilty of committing atrocities will be held responsible and tried as war criminals by an appropriate international body. The civilized world must make clear to those throughout the world who commit the crimes that we saw in Kuwait and that we are now seeing in Bosnia, that we will not let them go free—that we will make them answer for their actions.

The resolution before us today puts the Senate on record in support of the President's recent actions. I believe it is an important statement for this body and I intend to support it.

Mr. JEFFORDS. Mr. President, I wish to indicate my support for this resolution, and my misgivings.

I fully agree with the sponsors of this resolution that we must strongly condemn reported human rights abuses and demand immediate access by international relief personnel to refugee and prisoner of war camps. The reports of murder and torture must be immediately investigated. I also support the participation of the United States in a U.N. effort to ensure the delivery of humanitarian aid to Bosnia, knowing that this effort will probably require the use of force. The President is working hard to gather support for just such an international effort. And it is appropriate for the U.S. Senate to articulate its backing of this objective, realizing that U.S. military personnel may be called on to participate.

The delivery of humanitarian supplies will no doubt be a difficult job if the U.N.'s experience at the Sarajevo Airport is any indication. But it must be attempted in view of the increasingly desperate situation of the besieged Bosnians. I think there is relative agreement in this Chamber on the importance of that mission and the wisdom of the President's decision to seek a U.N. mandate to accomplish it.

Notwithstanding this general agreement, the debate on this resolution has centered on the larger issue of whether the United States should become directly involved in the Bosnian conflict. The version of this resolution presented to the Foreign Relations Committee last week contained language calling on the United Nations Security Council to develop a plan for putting all heavy weapons under U.N. control and implied that the Senate would approve use of U.S. military forces to do so. This resolution was adopted by the committee on a 12 to 4 vote.

I could not support a resolution that in effect would commit U.S. troops to the vague task of trying to disarm the parties to this conflict. Most military experts agree that such a task would require ground troops, would probably take a long time to accomplish and could exact heavy casualties. My colleagues must remember that much of Bosnia is extremely rugged country and that this is a centuries-old con-

flict. Disarming the parties could bog down U.N. troops for an extended period in the midst of a guerrilla war. Is this not a potential repeat of the Lebanon fiasco when our Marines were bombed while guarding the airport and forced to withdraw? It seems to me that we should avoid such a situation if at all possible, and if we were to decide to become engaged, it should be only with very clearly stated goals and a firm understanding of the likely risks and costs involved. Neither of these exist at this point. While the resolution before us today puts disarmament in the context of a U.N.-orchestrated cease-fire, it is still highlighted as an objective for the Security Council, which may not be a wise move at this juncture.

I am even more troubled by the larger implications of this debate. As some of my colleagues have commented, this indeed is a defining moment in the evolution of U.S. foreign policy. With the demise of cold war nuclear threat, the United States may feel freer to become engaged in conflict situations around the globe that previously would have been avoided for fear of precipitating a United States-Soviet confrontation. Suddenly it seems possible to project limited force into an area in an effort to promote regional stability. And the new impetus to coordinate efforts through the United Nations makes it seem safer to contemplate military action. But I would argue that we are running the risk of being lulled by the seemingly less dangerous climate of the post-cold war into potentially dangerous conflicts.

Mr. President, the crisis in Bosnia is just one of several very tragic situations around the world. The front page of today's Washington Post brought one of those tragedies home—the suffering of a Somalian mother holding her starving child. Estimates are that hundreds, and perhaps even thousands of people are dying each day from starvation. According to the Post, a U.N. inspector referred to the area around Baidoa as the land of the dead. Adverse weather conditions combined with violence between rival clans are creating a famine perhaps worse than that suffered by Ethiopia in 1984. In many ways, it would be much easier and less costly in military terms to intervene in the Somalian civil war and get humanitarian aid to the people who so desperately need it. Why focus our attention solely on Bosnia and not on Somalia, where the suffering of innocent people may be of even greater proportions?

I agree that we must take immediate action to express our outrage over Serbian policies of ethnic cleansing. The Senate agrees that the attempt to displace all Moslems from Bosnia cannot go unchallenged. But why have we not been equally outraged at the Chinese efforts to subjugate the Tibetan and forcibly absorb these proud and independent people into the Chinese population? Why did we not take action against Saddam Hussein when he used poison gas on the Iraqi Kurds? The list goes on of small ethnic and religious groups threatened with annihilation.

After passage of this resolution, I strongly urge that we step back from the particulars of the Bosnian situation and try to develop a new set of criteria that can guide us in the new world order. How do we decide which ethnic and regional crises to get involved in? Should U.S. involvement be bilateral, or should the United Nations be the primary vehicle for U.S. action? When should military force be contemplated, and under whose flag: the American flag? NATO? The U.N. banner? Should U.S. national interest be the main criteria for involvement, or should humanitarian principles primarily guide our actions?

This is indeed a critical moment in U.S. history. We must respond to the demands of the moment in a manner that shows we are cognizant of what may lie ahead and the precedent we may be setting for future conflicts.

Mr. CHAFEE. Mr. President, yesterday I expressed my outrage regarding the atrocities taking place in Bosnia. I also voiced my concerns regarding the resolution before us. As carefully, as I could I pointed out the dangers in becoming involved on the land in that area of the world.

As a general rule, I do not believe we should be expressing the Sense of the Senate, on matters such as this, which ought to be within the sole discretion of the President. Having said that, I would still like to explain why I intend to vote for its adoption.

Through this resolution we are exhorting the President to seek United Nations approval to use "all necessary means" in Bosnia to ensure the delivery of humanitarian aid and to gain access to refugee and prisoner camps. At the same time, I along with Senator after Senator, expressed reservations about the possibility of involving U.S. forces on the ground in Bosnia. There is indeed an inconsistency in these positions.

However, there is value in this resolution if it helps to gain the attention of Serbian Nationalists. I hope that this resolution will have a sobering effect on them and persuade them to cooperate with the United Nations.

Mr. President, I have great confidence in President Bush, who has demonstrated a keen appreciation of the pitfalls associated with the commitment of U.S. forces in Bosnia. I feel confident that President Bush will not permit our country to get dragged into a quagmire in Bosnia, and I therefore can support this resolution. Finally, this is a nonbinding resolution, and I know that we would have to vote again before U.S. forces could be committed to conflict.

I, therefore, intend to support this resolution in the hope that it will promote greater respect for human rights on the part of the Serbian Government and Serbian guerrillas in Bosnia.

Mr. KERRY. Mr. President, the choice presented by this resolution is clear. Are we going to stand by and watch a bunch of thugs and murderers commit virtual genocide; or are we going to do what we can, as civilized people, in cooperation with the rest of the civilized world, to stop them?

In the fall of 1990, at the time of Operation Desert Shield, the President told us that by confronting Saddam Hussein, we could help bring about a "new era, freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace * * * a world in which nations recognize their shared responsibility for freedom and justice and where the strong respect the rights of the weak."

The question we face today is whether those words mean anything at all. This is a defining moment, not only for the suffering people of Bosnia, but for the international community as well.

Because if we stand by and do nothing while orphans are murdered, while defenseless men and women and children are herded into cattle cars and shipped to detention camps, while civilian homes and apartments are shelled day after day, while those trying to provide food and medicine to the sick and starving are threatened and shot at, and while a process of so-called ethnic cleansing is followed to its logical, deadly conclusion, we will not simply have failed the people of former Yugoslavia, we will have aided and abetted their destruction. And we will have sent a message to dictators and potential dictators from the hills of Cambodia to the mountains of Peru that as long as it is only human lives and not oil that is at stake, you can get away with just about anything you have the power and the ruthlessness to attempt.

During debate on this issue in the Foreign Relations Committee, concern was expressed about the precedent that we might be setting by this resolution. After all, if we participate in using force to stop the bloodshed in Bosnia, what about the civil war in Somalia, what about Nagorno-Karabach, what about Kashmir, what about any number of conflicts that are now raging or that may break out around the globe? I think this is an understandable concern, Mr. President, but I also think there are good answers to it.

First of all, what is happening in Bosnia is not—as some have said—a civil war. Make no mistake about that; it is international aggression. The Bosnian Serbs have received arms, training, supplies, and direction from the Government in Belgrade and the majority of those now fighting as Bosnian Serbs are former members of

the regular Yugoslav Army. Like Kuwait in 1990, Bosnia has rights under international law that are being abused. Like Kuwait, Bosnia has a right to expect the international community to respond.

Second, the goals we have set are limited. No one has proposed sending in United States, or for that matter, United Nation troops to fight a land war in the Balkans. We are talking about humanitarian intervention. We ask only that relief efforts be protected, that the Red Cross have unimpeded access to prison and detention camps, and that efforts be made to investigate allegations that atrocities are occurring or have occurred. These are all straightforward goals, and all are designed for the single purpose of saving lives.

Third, there is an inherently inhibiting factor built into this resolution: It depends on action by the Security Council of the United Nations. Those who say that if we get involved here, we will get involved everywhere, forget that. We are not talking about going it alone. We are talking about mobilizing Russia, China, Europe, and the rest of the international community to protect international standards of law and rights. That is not going to happen every day or everywhere—but it should happen in Bosnia and it should happen now.

Finally, I ask my colleagues, what is wrong with a precedent that says to Mr. Milosevic, you will not get away with genocide? What is wrong with a precedent that says there are consequences to lying repeatedly to the United Nations? What is wrong with a precedent that attaches a price to shooting at caravans of food and medicine and trucks carrying refugees? What is wrong with a precedent that says suspected death camps are a matter of international concern? These are not precedents to the feared. These are precedents for international peacekeeping and humanitarian relief that we must establish if any of our rhetoric, or the President's rhetoric, in recent years is to have any meaning at all.

And as for those who are worried about the United States getting involved in humanitarian relief efforts in Somalia, all I can say is that my worry is the opposite: That we will not do enough, quickly enough, to save the thousands on the verge of starvation in that troubled land.

The second major concern that has been expressed about this resolution on Bosnia is more serious and that is that the process it envisions will not work. The argument goes that military intervention on a scale that would make a difference cannot be supported; while military intervention on a scale that can be supported would not make a difference. As a veteran of Vietnam, this is an argument I can not help but think about with great care. We do not want another Vietnam or Lebanon. We do not want to raise the expectation in Bosnia that American or United Nations troops will be able to roll back and undo the aggression that has already been perpetrated against their land—because as much as we might desire that, it is very, very unlikely to occur.

We should not go forward with military force under this resolution or under the U.N. resolution that will be approved tomorrow unless we are clear about what we hope to accomplish and clear, as well, about how we intend to accomplish that goal.

That is why it is important to remember that this resolution does not authorize the use of American ground troops in Bosnia, nor does it specifically authorize the use of air or naval power. It simply associates the U.S. Senate with the current policies of this administration and of the Security Council of the United Nations. It states the principle embodied in the draft of the United Nations resolution, to be approved this week, that we are

> determined to establish as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever needed in Bosnia.

We do not know, at this point, how much force this will take or if it will require the substantial application of force at all. We will not know what will work until we try to make it work. But given the limited nature of our goals, clearly there are many options short of the full-scale engagement of troops on the ground that some have said—without cause—would result from this resolution. Those options should be explored.

There have been some, during this debate, who have simply assumed that the Serbians will never yield, never flinch, never give up, and never change policy no matter how much pressure is brought to bear against them.

But the fact is that the Serbian forces, to date, have not been tested. All they have done so far is fight like cowards—sitting in the hills firing artillery at apartment houses and bread lines, using sniper fire to scare teenage boys. They have been able to do this because they have a monopoly on heavy weapons. We do not know how these forces will stand up against even the threat of opposing air power. We do not know how they might respond to the threat of attacks on supply lines or on military targets inside Serbia if those should prove necessary. We do not know how they would respond if we lifted the arms embargo—as we should if Serbian attacks do not immediately cease—so that Bosnians can defend themselves and their families. And we do not know whether President Milosevic can withstand the growing opposition of his own people, at least some of whom, despite a lack of good information, are appalled by the policies he is carrying out.

As I said, there are those who have argued that the United States and the world community should not even bother trying to stand up to the Serbs because they are a brave and stubborn people. We are told over and over again that tens of thousands of Nazi troops tried to defeat the Serbs during the Second World War and could not do it. But I submit there is a difference between stubbornness in opposition to Nazi policies and stubbornness in support of policies that can fairly be described as Nazi-like. The former generates solidarity and encourages sacrifice; the latter is demoralizing and divisive.

Day after day, we read tiny accounts from Moslems and Croats about acts of kindness and help from individual Serbs—their former neighbors. We know there have been large, popular demonstrations in Belgrade in opposition to the policies of Milosevic. We know there is opposition to Milosevic in the business community and among intellectuals. We need not—and should not assume—that Serbian policies will not change; nor should we accept that those now responsible for Serbian atrocities will remain indefinitely in power.

A third concern about this resolution that I wish to discuss is the question of taking sides. Some say that it would be a mistake for the United States or the United Nations to intervene in an ethnic dispute that goes back centuries. Obviously, there is a basis for this concern in the history of relations between Serbians and Croats, and the uneasy status of Albanians, Moslems, and other minorities within the former Yugoslavia today. Given this history and given the reports that we have heard about killings and abuses committed by all sides, there are obvious grounds for caution.

But let us be clear that this resolution does not call upon us to take the side of one ethnic group against another. Its mandate is even-handed: To provide relief to all who need it; to see that emergency medical care is available to the injured or wounded on all sides; to obtain access to all prisons and detention camps and to investigate allegations of war crimes by all sides.

Mr. President, the difficulty of bringing peace to an area as far away and as ordinarily remote from American concerns as the Balkans does not absolve us from the need to act, nor does it eliminate our capacity to influence events. It is a cliche of history that all it takes for evil to prosper is for good men and women to do nothing. We have no guarantee that the measures recommended in this resolution will succeed in halting the bloodshed in Bosnia or in erasing the shame that the international community should feel for its failure to act earlier.

59-059 O—97 Vol. 138 (Pt. 16) 20

But although many lives have already been lost, many more remain at stake. Their faces stare out at us each morning from the pages of newspapers; and each evening from the television. Their prayers reach us from makeshift prisons and hospitals, from shot out storefronts, and from makeshift cemeteries where mourners gather to bury the dead in a land that has literally run out of wood for making coffins.

We are not asked to do much. Only to try. Only to live up, just a little bit, to our own pretentions and principles. Only to define, in a way that has meaning, what a new world order is really all about.

Mr. President, I hope that we will approve this amendment by an overwhelming vote. I hope that the United States and the United Nations will go forward; that some stark choices will be presented to the Serbians, both in Belgrade and in Bosnia; that the tide of events will soon change course; and that history will record that in this case when the call came, the international community did respond and civilization and decency did prevail.

Mr. KOHL. Mr. President, last week I made some comments about the general situation in the former State of Yugoslavia. At that time I was expressing my support for the efforts by Senator LIEBERMAN and Senator DECONCINI to offer an amendment, which I cosponsored, condemning the inhuman ethnic cleansing policy practiced by Serbian forces and calling on the President to work with the United Nations to deal with the human crisis those policies have created.

Ever since the effort was made to bring that amendment before the Senate, we have had people opposing it. But—and this is critical—they have not opposed the factual basis for the amendment or the resolution now before us. They have not disputed the claim that the current hostilities were precipitated by Serbia and Serbian-backed forces. They have not disputed the claim that supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces. And most critically, they have not disputed the claim that Serbian forces are committing horrible atrocities including the ethnic-cleansing of regions inhabited by non-Serbs.

They have not disputed the fact that there is all too sufficient reason to believe that a genocide is being carried out in Bosnia-Hercegovina. A genocide.

Undisputed.

Mr. President, when those claims are not disputed, I do not know how anyone can dispute the need to act.

I understand the concerns that have been raised. People are concerned that the need to act could be translated into American ground forces being sent into a conflict that would be hard to win and would involve great risk. I share that concern. But the resolution before us does not transform the need to act into any particular policy. In fact, to the extent that the resolution is suggestive about the type of force to be used, it implies an inclination to favor a demonstration of force, probably air strikes against selected Serbian positions. But it is important, Mr. President, to recognize the fact that the resolution before us does not commit us to any particular military course of action. Indeed, it does not commit the United States to being involved in any military action. All the resolution calls for is the President to urge the U.N. Security Council to meet in order to authorize all necessary means, including the use of military force, to achieve specific goals. Those goals are not broad political statements like bring peace to the people or end the conflict. They are specific and I believe they can be achieved through the use of military force. But even if the President responds to this resolution and even if the United Nations authorizes the use of force, that does not commit a single American soldier, sailor, or aviator to combat. We have not surrendered our sovereignty to the United Nations. No matter what the United Nations authorizes, America will decide what forces to deploy, if any, and what the goals and tactics of those forces will be.

Now Mr. President, over a year ago I voted against the immediate use of force against Iraq. I thought there were other options which we should explore before using force. I do not wish to revisit that debate today. But I do want to make three points about the relationship between that decision and this one.

First, while Desert Storm turned out well—while the loss of American life was miraculously small—we did not go into that conflict thinking that our losses would be measured in the tens of dozens rather than tens of thousands. Those who voted for the use of force in the Persian Gulf had to be willing to risk the loss of thousands of American lives there. They were willing to do so because they believed that the cause was just and that there was no recourse other than force. Are those who oppose this resolution suggesting that this cause—to prevent a genocide—is somehow suspect? I hope not. But they may be suggesting that this cause, while just, is not directly related to our national self-interest. The national self-interest in the Persian Gulf, to quote our Secretary of State, was "jobs, jobs, jobs." The national self-interest in this case isn't that simple, but it is just as clear. It is to prevent genocide. To prevent one nation, Serbia, from invading the sovereign territory of other nations, Bosnia in this case, Croatia just a few months ago. To bring some meaning to the new world order, a phrase which until now has been largely symbolic rather than substantive. If that is not in America's self-interest then we have too narrow a notion of what America is all about. We are about jobs, jobs, jobs. But we are about more than that. We are also about human rights and human dignity. And that is what this resolution is about as well.

Second, Mr. President, in Iraq we had an alternative to the use of force—economic sanctions—which some people thought was a viable way to achieve our goals. But none of the opponents of this resolution have pointed to any option other than sitting on the sidelines and saying how sorry we are about the destruction of a people and a sovereign state. And that, Mr. President, is unacceptable.

Third, in the Persian Gulf we allegedly had a clear aim and we allegedly deployed military forces to assure it was achieved. In hindsight, I am not at all sure we understood what those goals were and were not; nor am I sure that we achieved them. We certainly have not achieved the goal of giving United Nations observers the right to inspect Iraqi weapons facilities. And I suspect that some people thought our goal was to eliminate Saddam Hussein. We clearly did not do that. Nor did we protect the Kurds. But, put that aside for the moment.

The goals in this resolution are clear: Provide humanitarian relief to civilians, inspect all the prisoner of war camps in all the republics of the former Yugoslavia, review the desirability of lifting the arms embargo applied to Bosnia, evaluate the feasibility of establishing a war crimes tribunal.

Is it impossible for the United States, as part of a United Nations force, to provide humanitarian relief to civilians? The irony here is worth considering for a moment. Initially, this resolution was to have been offered as an amendment to legislation authorizing the expenditure of over $270 billion this year for the Department of Defense. Are the opponents of this resolution telling us that $270 billion, in combination with the trillions we have spent in the past few years, are not sufficient to allow us, in combination with other nations, to achieve those specific and limited goals against the forces of Serbia? What are we about, Mr. President? What have we done? Prepared to wage a war against a Soviet state that no longer exists but failed to prepare to protect the peace in the wake of the Soviet demise? Mr. President, if we do not have the ability to achieve limited goals against Serbia, then we might as well defeat the DOD authorization bill and start all over again. We are not proposing that we send soldiers to some airfield in Beirut with an undefined mission and no role to play other than watch and wait. We are proposing that we review the desirability of engaging in a real military mission. And as the Brown amendment we adopted

makes clear, we will not send a single American man or woman into a combat situation unless their mission is clear and we have given them the resources to accomplish it.

Mr. President, I hope I have made it clear that this resolution does not commit a single American man or woman to go to Bosnia. I also hope I have made it clear why the conditions in Bosnia justify considering that commitment. When the Soviet state existed, we would not have gone to war about conditions in their satellite republics. We did not in Hungary. We did not in Poland. But there is no Soviet state now. There is a new reality in the world. And if we do not deal with this first sign of ethnic instability in a post-cold war environment, if we do not respond to this initial breakdown in civilized structure, we will see worse. We will see much worse. So let us face up to our responsibilities—our moral responsibility as a people and our political responsibility as a great nation—and adopt this resolution.

Mr. GORTON. Mr. President, there is no disagreement in this body about the agony and outrage imposed upon the non-Serbian citizens of Bosnia. Its horrors rank with those of Cambodia of a few years ago, of the Soviet invasion of Afghanistan, of the Iraqi invasion of Kuwait, and the slaughter in Somalia. The Serbian ethnic cleansing may constitute the most vile case of aggression since World War II, as we watch Serbs systematically remove over 2 million people from their homes on the basis of race.

But, the question today is whether our horrified reaction to these atrocities will also lead us toward appropriate public policy. The resolution we are considering specifically authorizes all means necessary for a vague and intermediate goal, which may well require the use of ground troops. Before we adopt such a policy, we must first determine a precise political goal, next, what military strategy must be used to attain that goal, and finally, once we are in, how we will get out.

First, what is the political goal of the United States and the United Nations? The answer which this resolution offers is the provision of humanitarian relief to the citizens of Bosnia. It is not limited to creating a landline to supply food and medicine to the people of Sarajevo, but also includes the relief of perhaps 100 concentration camps in Bosnia, containing over 70,000 people. Assuming that we feed these people, do we then offer them prolonged protection there, send them to other European countries, or return them to their homes? If to their homes, it will be to a new, disturbed country of which Serbia controls 70 percent. And even this limited goal will, those on the ground estimate, require 100,000 troops and many casualties for an indefinite period.

Having undertaken this expense, we will not even have responded to the Bosnians' requests. Yesterday, the Bosnian Ambassador to the United Nations said that the anticipated resolution addresses the symptoms but not the illness. It is tantamount, he said, to fattening up Bosnians before their slaughter. Humanitarian assistance doesn't advance the Bosnians' true goal of living in an independent Bosnia.

I am not certain, however, that some are not recklessly contemplating this goal, and considering it implicitly included in this resolution. After all, we have recognized Bosnia's independence and have included that independence as a justification for our intervention in this conflict. If that is our goal—and it is for many countries—is the United Nations going to concern itself with the security as well as the independence of Bosnia? If so, this would require the disarming of Serbians who have stayed, or moved, into Bosnia, and a return of that portion of the 2 million refugees who wish to move back into their homes in Bosnia. It will almost certainly require a formal, Desert Storm-type war with Serbia itself.

Is it a realistic goal for the United Nations to quell the fighting in an area fired by hatreds that go back half a millennium? Roman Catholics have fought Orthodox Christians there since 1221 and the Serbs cling to their 1389 defeat by the Turks. Can we expect these people to coexist peacefully once we have provided humanitarian assistance? Or is our implicit goal to end the integration with some kind of partitioning of Bosnia? Mr. President, these are questions which I believe we must answer before we begin any military action in Bosnia. For all of their noble intentions, this resolution's goals are not specific enough and their cost is gravely underestimated.

Second, once we have defined our goal—and I believe that anything short of allowing Bosnia to be an independent country is a fatally intermediate goal—what will be our military strategy toward attaining that goal? One of the attractive assumptions in this debate has been that we can achieve our goals through air strikes. But if we are to free Sarajevo as well as the untold number of concentration camps in the north of Bosnia, we will need to secure communication lines with dozens—perhaps 50, 60, or 100—of locations within Bosnia, all with tenuous lines of communications along roads and river valleys surrounded by hills from which snipers can apparently act unimpeded.

If we are to vote for this resolution, I would like to know now many casualties we are willing to accept. Winston Churchill might have been exaggerating in 1944 when he said that Yugoslavia's guerrillas were occupying 14 German divisions, but as we know, Germany was never successful in subduing Yugoslavia.

Currently at the United Nations, we are pursuing a resolution which authorizes an unstated degree of force. One official quoted in today's Washington Post said, "The numbers, the game plan, we're not aware of such a thing." Apparently, diplomatic efforts are continuing independently of military consultation. When asked how many troops would be required to fulfill this mission, one military specialist estimated 100,000. Are any of us here willing to commit 100,000 U.N. troops? Are we prepared to send half that number of Americans?

And of those men who are killed, how many will be American? We have heard a great deal from the Germans, who have been magnanimous in accepting refugees, but are nonetheless haunted by their history in Yugoslavia, and appear reluctant to enter. How many troops can we expect the United Kingdom to contribute? At the moment, it has more misgivings than we do. How many troops can we expect from the Moslem countries, from France, from Russia?

Third, Mr. President, I believe we should ask ourselves how we get ourselves out once we are in? If we define our goal as the relief of Sarajevo and the concentration camps, will we be able to leave once these people fall under attack? And if we cannot allow ourselves to leave, for how long do we choose to protect them? For 2 months or 2 years? At what point could we declare our victory? Even if we were to feed and protect these people for 2 years, it's likely that any cease-fire would collapse as soon as one party was left defenseless. I ask those who propose our intervention to identify the scenario in which we soon remove ourselves from this conflict, leaving behind a peaceful resolution in Bosnia.

Mr. President, last week, British Prime Minister John Major wrote that, "It is the nature of the Yugoslav tragedy that solutions cannot be imposed from the outside." We should accept that any role we assume here will be unsatisfactory. There is, however, an approach better than the one we are now considering.

The Bosnians have a wish to be free. They have a fundamental right to be free. We should arm them and let them establish their own freedom. We can make this a fair fight, and perhaps a winning fight, without risking our lives and the lives of our European allies.

At the moment, we are adhering to a U.N. arms embargo which effectively penalizes only those in Bosnia who are fighting for their freedom and does nothing to hinder their aggressors. In fact, while the Bosnians have remained woefully underequipped, German television has reported that Serbia is receiving arms through its long, porous border with Romania. Others have reported that ships have deposited weap-

ons at the port of Bar, Montenegro. If we are going to impose an embargo upon former Yugoslavia, at the very least, we should be certain that it does not benefit the aggressors more than the victims.

What's more, the resolution we are now debating asks for the provision of humanitarian aid. The Bosnians are now warning that this aid will be useless unless they have some means to defend themselves. We are laboring over dangerous military actions whose worth is questioned by its recipients. Mr. President, I propose that, in addition to a total and complete blockade, we listen to Bosnians, and give them the ability to fight for their own freedom. As we did in Afghanistan, we can allow the Bosnians to defend themselves and their land, without risking lives in the United States.

Mr. President, I believe that this resolution, no matter how modified, presents a grave danger to the United States. It authorizes an unspecified amount of force, for unclear goals which do not even include, I fear, the true goals of some of this body. For once, I believe that we should exercise silence, and allow the President to bring before us a specific proposal on which we can debate the clarity of its political goals, the means and costs of its goals, and how long we are willing to pursue its goals. At that time we can hear from military experts who will speak specifically toward the proposal. Until then, a vote for this resolution is a tacit vote for authorization beyond what I think we are truly willing to extend.

Mr. COHEN. Mr. President, like all those who have followed the situation in Bosnia, my heart grieves for the suffering people there. The images of children and grandmothers being shot, the stories of concentration camps and sealed trains, the shortages of food and medical supplies, all of these demand action.

There is complete agreement in the Senate that humanitarian relief supplies need to be provided, detention centers need to be opened to international human rights groups, and negotiations must be conducted to address the underlying problems that are feeding the violence.

The question Mr. President is, What actions can we take that would be most effective in promoting these objectives? If there was good reason to believe that the use of military force would alleviate that suffering and bring us closer to the resolution of the problems that have produced that suffering, I would not hesitate to support such force.

But the best evidence available to us clearly indicates that using military force will only make that suffering worse, will only increase the violence, and will only reduce the amount of humanitarian aid that can be delivered.

This view, Mr. President, is supported by this morning's testimony by the U.N. official who until last week was in charge of delivering humanitarian aid in Sarajevo.

We all wish that our powerful military forces could end this tragedy. But we must base our decision on the clear evidence that intervening militarily, and even threatening to intervene, will only heighten the violence and deepen the suffering.

Instead of threatening to use force, we should act through the U.N. Protection Forces to improve the supply of humanitarian goods to Bosnia, we should act through the International Committee of the Red Cross to improve access to and conditions in detention centers, and we should act through the United Nations, the European Community, and the Conference on Security and Cooperation in Europe to get underway serious negotiations on the future of Bosnia.

AIR POWER NOT ENOUGH

Throughout the debate, the proponents of this resolution have repeatedly sought to assure the Senate and the American people that it only is meant to express support for the use of air power and naval power, not ground troops. Several Senators were more candid in their remarks when they acknowledged that at least some ground forces would probably be necessary. But, in general, the chorus we have been hearing from proponents is air power and the images we have been fed have been of antiseptic, surgical air strikes that knock out aggressors and leave innocent civilians untouched.

Unfortunately, Mr. President, the professional opinions presented by knowledgeable military officers completely contradict this.

Maj. Gen. Lewis MacKenzie served until a few days ago as the commander of the U.N. Protection Force in Sarajevo. General MacKenzie has served in nine U.N. peacekeeping operations around the world and he has spent most of this year in Croatia and Bosnia. He left Sarajevo just last week for a new assignment.

Two days ago, General MacKenzie was asked if the U.N. "Security Council passes a resolution authorizing the use of force to ensure humanitarian assistance" would "air power alone * * * be enough to get the job done?"

After indicating that he was constrained in what he could say, he clearly stated: "I think probably I could say no."

This morning, the Armed Services Committee held a hearing on the question of the use of force in Bosnia. I am going to be citing testimony from this morning's hearing and since we do not yet have a transcript I will be reciting what I would term faithful efforts at quotation. Although a later review of the transcript may reveal some difference in words, I do not think there will be a difference in content.

One of the witnesses at today's hearing was Lt. Gen. Barry McCaffrey, who is the Assistant to the Chairman of the Joint Chiefs of Staff, General Powell.

Senator WARNER asked General McCaffrey whether the objectives of this Senate resolution could be accomplished with air and sea power alone. General McCaffrey's response was "the short answer is no."

ARMY CORPS FOR SARAJEVO ALONE

Senator COATS later asked how many troops would be required to secure the airport and a land route to Sarajevo. General McCaffrey responded that we would need to secure a 30-kilometer circle around Sarajevo and a 201-mile corridor from Split on the Adriatic to Sarajevo. He testified that this would require "an army corps, about 60,000 to 120,000 troops." This is what would be required for Sarajevo alone.

Since General McCaffrey testified that his mandate would extend beyond this to provide humanitarian relief throughout Bosnia, I asked how many total troops would be required to meet that mandate. After noting that Bosnia was the size of South Vietnam and there are some 200,000 armed individuals in Bosnia, he testified that the delivery of humanitarian aid throughout Bosnia would require a "field army."

There is no set size to a field army. In Vietnam and in the gulf war, we deployed a field army, although the size of that force differed in those two cases.

But earlier in the hearing in response to a question from Senator EXON, General McCaffrey testified that 400,000 troops would be needed, which is consistent with the concept of a field army.

Four hundred thousand troops, Mr. President.

Perhaps not all of these would be Americans. But it is difficult to predict what other nation might provide troops. British Prime Minister John Major has repeatedly stated that Great Britain will not provide ground troops. Germany says that its constitution, as well as history, prevents deployment of ground troops in Yugoslavia, and its deployment of warships in the Adriatic just to monitor the embargo has been challenged in Germany's constitutional court. Italy says it will not send troops, given the history of Italian aggression in Yugoslavia during World War II. The French have made no commitments to provide forces. The Russians would be very reluctant to fight another Slavic group, and the fact is that Russia's military leadership made clear that its sympathies lie not with the Bosnian Moslems but with the Serbs.

So perhaps not all 400,000 troops would be American, but we have no indication from our allies that they would be willing to provide troops.

Moreover, Mr. President, the number of troops is only one relevant question.

Another is how long we would need to deploy those troops. The U.N. commanding general, Lewis MacKenzie, was quoted as mentioning the possibility of deploying troops for 20 years in Yugoslavia. Assuming this might be a realistic possibility, Mr. President, the decision we make today could conceivably result in American children not yet born being sent to a Bosnian war zone as 18-year-old privates two decades from now.

And General MacKenzie has repeatedly pointed out that sending troops will solve nothing and when the troops are withdrawn the situation will return to the way it had been only with much worse suffering.

General McCaffrey echoed such sentiments during today's hearing when he testified that, while the U.S. Armed Forces are prepared to go in harm's way, he is concerned that using military force would not make the situation better. He expressed the hope that military action would only be a backdrop to political efforts to resolve the underlying problems. But such political efforts are not on the verge of success. And, in fact, General MacKenzie testified that our even talking about military intervention would keep the parties away from the negotiating table.

GENERAL MACKENZIE: DON'T INTERVENE

Mr. President, the most persuasive testimony Congress has received on Bosnia was provided today by General MacKenzie, who until last week commanded the U.N. protection force in Sarajevo and earlier commanded U.N. Forces in Croatia.

He clearly and categorically argued against even considering to use military force in an effort to deliver humanitarian supplies. Let me quote as best I can from his testimony:

General MACKENZIE. There is no military solution. There is no way intervention will do anything but escalate the violence.

Sen. NUNN. When you say intervention will escalate the violence, do you include humanitarian assistance as intervention?

Gen. MACKENZIE. I'm sorry but I'm afraid so.

General MacKenzie went on to note that the United Nations is currently delivering humanitarian supplies to Sarajevo, both by air and by land. While there have been some disruptions of that, he argued that any effort to use military force would actually interrupt even this supply of humanitarian goods.

Clearly there is suffering in Sarajevo and elsewhere in Bosnia. If there was good reason to believe that the use of military force would alleviate that suffering and bring us closer to the resolution of the problems that have produced that suffering, I would not hesitate to support this resolution. But the evidence available to us clearly indicates that using military force will only make that suffering worse.

General MacKenzie emphasized that there was no possibility that once we committed to using force that we could contain that force to simply trying to deliver humanitarian supplies, but instead we would inevitably be drawn into fighting various groups in Bosnia.

He also emphasized that the Bosnian Government wants us to intervene. He quoted the Bosnian President as stating that—

. . . this is what we have been hoping for. Let Bush take the roads, have his helicopters shot at. He'll shoot back and pretty soon he'll be fighting the same war as we are.

He testified that even talking about military intervention was a carrot encouraging the fighting in Bosnia to continue, rather than a stick to get the fighting to stop. "You're playing their hand," he testified.

And, as I stated, he repeatedly testified that intervention and talk of intervention will prevent any possibility of talks to address the underlying problems among the groups in Bosnia:

The more we talk about intervention—and that includes humanitarian aid, because that will grow, I guarantee, to more intervention—they will not talk. The answer is to rip the rug of intervention out from under them, because until they do they won't talk.

The first thing I'd recommend is get away from the carrot of intervention.

Mr. President, this is the testimony of the man who until a few days ago was the U.N. military commander in Sarajevo. He knows the military situation on the ground there. He knows the individuals involved as real people, not just as figures on a television screen. He has been involved in numerous other U.N. peacekeeping operations in Central America, the Middle East, and elsewhere and has seen first hand what works and what does not work in these situations. We ought to give great weight to his unequivocal testimony.

ADDITIONAL HILL AUTHORIZATION NEEDED?

I'm a bit confused by the debate that has been posited so far. On the one hand, we have Members urging us to take action and, on the other hand, they say this is a nonbinding resolution.

When I left my first job, I was given a watch. On the back it has a three-word inscription in Latin. It said, "Virtute, non verbis," which means "Deeds not words."

Yet according to the arguments of some, we are talking here about words and not deeds. According to the sponsor, if we pass this resolution, we are not in fact authorizing the President to take unilateral action.

I raise this in the context of what we went through on the Persian Gulf debate. I remember, for example, that President Bush went to the United Nations first and got a resolution passed in the Security Council. At that point he indicated to some of us that he did not feel it was necessary, constitutionally, to come to the Congress for approval for the use of force against Saddam Hussein.

Now, if we adopt this resolution and authorize the President to seek U.N. support for the use of force to achieve these goals, there arises the question or what happens next week after we go into recess. Would the President call us back into session?

Adoption of the resolution is urgent, we are told. Yet, we are also told, the resolution authorizes nothing and the President must come back to Congress before he acts, although we are out of session until after Labor Day. This seeming contradiction, together with the fact that the President has nearly completed negotiations for a security resolution which might be adopted as early as this afternoon, calls into question why this resolution is being handled as it is.

CONCLUSION

In the end, Mr. President, the decisions Senators must make is whether we will focus on intent or on consequences. The resolution before the Senate expresses the statement—a sincere and incontrovertible statement, but nonetheless nothing more than a statement—that the situation in Bosnia is abhorrent and we wish that our military forces could end the tragedy there. But the consequences of this resolution, if we were to follow through on its provisions, would, in fact, make the situation in Bosnia even more abhorrent. It would heighten the violence and deepen the suffering. It would make less likely the possibility of negotiations to resolve the underlying problems. And it would make it less likely that we would ever use our military forces in other situations in which they might, in fact, be able to alleviate suffering and counter aggression.

For all these reasons, Mr. President, and others I have expressed before, I will vote against this resolution.

Mr. CRAIG. Mr. President, the sense-of-the-Senate resolution before us on the conflict in Bosnia-Hercegovina is an important policy issue that deserves the attention of the U.S. Senate and the American people.

As a member of the Helsinki Commission on Human Rights. I have long been concerned about the suffering and destruction in this land torn by conflict. In an effort to help restore peace and stability I have supported previous legislation imposing sanctions, S. 2743.

The resolution we have before us expresses the concern that I share with many of my colleagues and this administration about the deterioration of the situation in the former Yugoslavian republic. While I agree with the intent of Senate Resolution 330, I have concerns about some of the language in the bill. The administration has been working diligently with our allies in Europe and through the auspices of the United States to ensure the delivery of humanitarian aid. I support the actions of

the administration and will continue to support our President's efforts in securing our national interests.

I am also concerned about the direction taken in Senate Resolution 330. I cannot support even the tacit discussion of the use of the United States military without a clearly defined and achievable objective and strategic plan that will get us to that objective. There has been a great deal of concern expressed by military advisers because of the mountainous terrain and many other geographical barriers to a successful campaign in the region. Also, entering a conflict with multiple players is difficult at best.

This does not mean that I feel we, as a nation, should sit idly by and watch the slaughter continue. I will continue to support the administration's efforts. If the use of force becomes an issue, and the above concerns are clearly addressed, I will then make a decision on whether or not to support the use of American troops in conjunction with a multilateral force.

There is no question that the tragic humanitarian situation, especially in Bosnia-Hercegovina, is unacceptable. I welcome the efforts made to ensure the delivery of aid, and will continue to support negotiations and diplomatic efforts to end hostilities and reestablish peace in that region. However, for the reasons outlined above, I will not support this bill.

Mr. KENNEDY. Mr. President, I give my strong support to this resolution calling for more effective action by the United States under the auspices of the United Nations to deal with the brutality and devastation being caused by the vicious aggression of Serbia.

During the past few weeks and months, the world has watched with horror as Serbian forces in Bosnia have indiscriminately shelled cities and villages, killing large numbers of innocent civilians.

Non-Serbian survivors have been rounded up in an ethnic cleansing campaign that is all too reminiscent of the atrocities perpetuated half a century ago by Nazi Germany.

So far, diplomatic and economic pressure on Serbia has not ended that government's aggression against Bosnia. In fact, our timid response during the past year has consistently been too little and too late. It may well have encouraged Serbia to expand its aggression and undertake its brutal, racist policy of ethnic cleansing that has raised the specter of genocide.

We have already delayed too long in mounting an effective response. If the international community is to protect basic principles of law and human rights, we must act now. And we must be willing to use military force as a last resort if other steps fall short. That may well be the only language that the Serbian dictators understand.

There are substantial risks involved in any action we take. But as we have witnessed in recent days, there are substantial risks involved in our failure to act.

The international community cannot afford to shy away from this crisis. The leadership and credibility of both the United States and the United Nations are at stake. If atrocities and racist policies are tolerated in Bosnia, they will be encouraged in many other lands. The time to stop them is now.

No one underestimates the difficulty of carrying out effective U.N. military action against Serbia. All of us hope that it will not be necessary. But we know that this aggression must be stopped—before it becomes even worse, before the cost of stopping it becomes even higher.

America is at its best when we stand up for human rights—both for our own citizens and for all peoples throughout the world. We must do all we can to stop this monstrous aggression and assist the innocent victims.

I urge the Senate to support this timely and important resolution.

Mr. DODD. Mr. President, I rise in strong support of this very important resolution. And I want to commend Senator PELL and Senator BIDEN for steering this legislation through the Foreign Relations Committee and bringing it to the floor so quickly.

I also want to make note of the important contributions of Senator DECONCINI and Senator LIEBERMAN, both of whom have been instrumental in bringing this matter to the attention of the Senate.

Mr. President, for the better part of a year the land once known as Yugoslavia has been consumed by upheaval and ravaged by war. It was a conflict, until recently, for the back pages of America, a sad but distant tragedy on the other side of the world.

Every one of us was appalled by the brutality of the fighting, shocked by the disregard for the value of human life. And all of us were shaken by the relentless attacks that left civilians without homes and a people without hope.

But as the war carried on we remained on the sidelines, a silent observer to this murderous game. It was a battle over traditions we did not understand, a war over values we could not comprehend. And as the death toll increased we safely kept our distance, secure in the belief that the problem was not ours.

In the course of the last several days, Mr. President, all that has changed.

It changed when we heard of the Serbian refugee camps, little pockets of hell where only terror prevailed. It changed when we heard of the boarded up trains, the firing squads, the mass executions. It changed when we heard of the scale of the tragedy: More than 100 refugee camps in this once peaceful land.

It changed when we heard of a camp called Omarska, where inmates were held in a four-level cage. It changed when we heard of the fate of the prisoners: that hundreds if not thousands were said to have died. And it changed when we heard of the so-called ethnic cleansing, a policy of fear in a land full of hate.

And it changed when we heard of the personal tragedies—the tales and the stories of torture and starvation.

One story was given, Mr. President, by a former prisoner at Omarska. In last Sunday's edition of New York Newsday, he told of civilians being held in a renovated mining complex, crowded like cattle at least 300 strong. They were given nothing to eat for days on end, forced to exist in their own filth and squalor.

Every few days, Mr. President, the door would open and 10 prisoners, sometimes 15, would be led away. The prisoner then tells the rest. "They would take them to a nearby lake," he said. "You'd hear a volley of rifles. And they'd never come back."

Those that were spared the firing squad, Mr. President, were hardly lucky. As one guard said, "We won't waste our bullets on them. They have no roof. There is sun and rain, cold nights, and beatings two times a day. We give them no food and no water. They will starve like animals."

Mr. President, I hope and I pray with all of my heart that these tragic reports turn out to be false. I hope we can be told that there really are no killings, that the stories are all wrong, that the hatred is not real.

But if these reports are true, Mr. President, then the conclusion is inescapable. What is happening in the Balkans may well be the makings of a modern genocide. And we can no longer stand on the sidelines and watch.

We can no longer wait for endless negotiations and futile cease-fires. We can no longer wait as civilians are bombed and tiny orphans are murdered. We can no longer wait as human beings are rounded up like cattle, led to a fate that defies all description.

Mr. President, it would be easy to stand here and call for a United States invasion of Yugoslavia. It would be easy to call for a full-scale intervention to bring Slobodan Milosevic to his knees. Our hearts and our passions might compel such a response.

But before we get carried away with emotion, Mr. President, we should pause for a moment and let reason be our guide. We should investigate our options, define our objectives, and carefully select the right course of action.

First of all, Mr. President, we should be wary of hasty conclusions and misleading comparisons. We have often heard it said that this is another Holocaust, that the actions of the Serbs can be compared to the Nazis, that Slobodan Milosevic is a modern version of Hitler.

The atrocities in Yugoslavia are certainly appalling. On that point, Mr. President, I have no doubt. But, Mr. President, I have always believed that the Holocaust was a singular moment in history, an episode of human suffering that will never be repeated. I will cling to that notion until I am forced to believe otherwise.

Second, Mr. President, let us not fall prey to casual generalizations about Serbian passions or the Serbian people. Not all Serbs are driven by hatred. Not all Serbs are supportive of this war. Not all Serbs have taken up arms against the Croatian and Bosnian people.

The truth is, we know very little about the conflict in the Balkans. We have little comprehension of the age-old passions involved. And the wrong move by an international military force might tragically backfire, turning popular rage against the Western world.

So let us not meet madness with more madness. Let us not meet insanity with greater insanity. Let us not blindly rush forward, and only compound the tragedy.

Let us instead take careful steps toward a legitimate bipartisan consensus. That is the principal intent of the resolution before us.

We started with the premise that anything we do must be in the framework of multilateral action. This is not the time for Rambo-like heroics. This is not the time for Globocop. We have neither the resources nor the capability to solve this problem on our own.

The resolution before us today calls on the President to convene an emergency meeting of the U.N. Security Council to consider military action, if necessary, for two narrowly defined purposes: To provide humanitarian relief to civilians in Bosnia and to gain access for United Nations and International Red Cross personnel to refugee and prisoner-of-war camps.

The resolution also calls on the Security Council to develop a plan for placing heavy weapons belonging to all factions in the conflict under U.N. supervision; to review and consider removing the arms embargo on Bosnia; and finally, to plan for a tribunal to investigate war crimes and crimes against humanity committed within the territory of the former Yugoslavia.

Mr. President, let me make one thing clear. This is not an authorization of force. If the President intends to use U.S. military forces, in connection with a U.N.-sponsored effort, he would have to ask Congress for the proper authorization as required under the Constitution. We would consider such a request at that time.

The purpose of this resolution, Mr. President, is to put the U.S. Senate on record as condemning in the strongest possible terms the senseless acts of violence taking place on Bosnia-Hercegovina. And it is to put the Serbian leaders on notice that we are prepared to consider military action if all other methods fail.

Mr. President, in the murky world of the Balkan civil war, the only thing for sure is that there are no easy solutions. The war in the former Yugoslavia will not come to an end overnight. The fighting will not be halted because of mere popular outrage.

But if there is to be a long-range solution to the war in the Balkans, our post-cold-war experience leaves us just one conclusion: Peace will not be imposed by unilateral action alone. Only through a legitimate multilateral consensus, supported if necessary by multilateral action, can we truly come to grips with the horrors in Bosnia.

That is the purpose of the resolution before us today. I hope it will be adopted with the strong support of this body.

Mr. BAUCUS. Mr. President, I raise today to discuss my vote on Senate Resolution 330.

It is trite to say that this is an enormously difficult vote. No decision of this body is more arduous than a choice contemplating the use of force.

I intend to support this sense-of-the-Senate resolution because I think we must demonstrate our solidarity with the innocent victims of conflict in the former Yugoslavia. In my view, this resolution is the only current vehicle we have for expressing our collective concern.

My support for this resolution is not without grave reservations. Despite the efforts to narrowly craft the resolution, too many questions remain unanswered.

I believe that when the United States decides to risk the lives of American servicemen, we must do so only with a clear sense of our goals. We must have a sense of the amount of force we are willing to bring to bear. And we must have the reasonable expectation that our goals are achievable.

On its face, the goals of this resolution seem clear. It is not a declaration of war, or even an authorization for the use of U.S. force. Rather, it is an expression of support for using United Nations leverage: First, to deliver humanitarian relief; and second, to gain international access to refugee and prisoner of war camps in the former Yugoslavia. I strongly support these goals.

I suspect that in a matter of a few weeks the Senate will return to this issue. At that time, the question will be whether to use force. I listened with great interest to the debate over this resolution. Before we vote on the use of force, we will need a lot more information than any of us appears to have today.

We will need a far clearer idea of the degree of force being contemplated. We will need a far clearer estimation of whether any amount of force will bring about our goals.

In the end, no United States action is likely to do more than buy a brief window of opportunity for the people of the former Yugoslavia. I sincerely hope that they, with the support of the international community, will use this opportunity to find a peaceful solution to the violence that plagues their land.

Mr. LAUTENBERG. Mr. President, I commend the authors of this resolution and the course of action it recommends. We must find a way to provide humanitarian relief to Bosnia-Hercegovina and to gain access for international inspectors to refugee and prisoner-of-war camps.

We have all been shocked and disturbed by the revelations of killing and injury taking place in Bosnia-Hercegovina. The faces of childern crying in pain haunt us. The knowledge that childern are being orphaned and others separated from their families cries out for our attention. The photographs of bombed out communities and emaciated refugees disturbs all sensibilities.

Mr. President, this is more than a civil war. The actions we are witnessing are motivated by so-called ethnic cleansing. The reports are haunting. They bring back memories of Hitler and World War II. Racial purification. Death camps and the intolerable treatment of innocent humans.

One of the most painful lessons we learned from World War II is that genocide is possible. We learned that ruthless hatred, if unchallenged, can lead to the senseless, brutal death of innocents. We also learned that silence, as written by the philosopher and writer Elie Wiesel, is a crime unto itself. We learned that never again can the world be silent in the face of racially motivated barbarity. Never again.

People should not be assaulted or murdered because they believe in a different religion or because they are different culturally. Basic decency and humanity command that religious and cultural differences between the Serbs, Croats, and Moslems be tolerated.

Mr. President, we have a responsibility to speak out. I hope this resolution will send a strong message to the aggressors in the former Yugoslavia that the killing must stop. This resolution does not call for the automatic deployment of U.S. troops. It is not a blank check for the use of U.S. military force. Rather, it is a statement of the principles of freedom and respect for basic human rights that the United States is willing to uphold internationally. It is a call for the President to work with the United Nations to find a way to bring relief and to gain access to the camps.

No one in this Senate wants to make a reckless commitment of U.S. military forces. But doing nothing is a violation of ethics and morality that the United States or other free countries should not accept.

I urge my colleagues to support this resolution.

Mr. DANFORTH. Mr. President, the news from Bosnia is horrifying. We are hearing about atrocities against innocent civilians, taken from their homes, driven into exile, because of their ethnicity and where they live. This is the policy of ethnic cleansing. It is grotesque. Yet it is the goal driving many in the civil war underway in Bosnia.

We will never stand by as systemmatic genocide, involving the shipment of people to death camps to exterminate them, is occurring. This country will never turn its back on the deliberate, premeditated extermination of a people.

However, this resolution would make things worse—not better. Guaranteeing humanitarian aid throughout Bosnia would mean engaging ground troops in a civil war without end, in a war where the sides are not clear and the fighting and atrocities are everywhere. It would mean putting the United Nations protection forces already on the ground at risk—a possibility that their former commander, General MacKenzie, has thundered against at every opportunity.

Mr. President, let us tell the parties to this conflict something that is unmistakeable in its clarity. Let us tell them that we will not tolerate death camps. Let us tell them that we are watching very, very carefully. And if we determine that death camps, involving a program of systematic extermination, do exist, then we will punish the perpetrators swiftly and surely. That is what this Senate should be saying today. That is the resolution I would support. It is not the resolution before us today.

The PRESIDING OFFICER. The hour of 2:15 having arrived, under the previous order, the question is on agreeing to the resolution (S. Res. 330) as relating to the multilateral action in Bosnia-Hercegovina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from California [Mr. SEYMOUR] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—74

Adams	Garn	Moynihan
Akaka	Glenn	Nickles
Baucus	Graham	Nunn
Bentsen	Grassley	Packwood
Biden	Harkin	Pell
Bond	Hatch	Pressler
Boren	Heflin	Pryor
Bradley	Inouye	Reid
Breaux	Jeffords	Riegle
Bryan	Johnston	Robb
Bumpers	Kassebaum	Rockefeller
Chafee	Kasten	Sanford
Cochran	Kennedy	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Shelby
D'Amato	Lautenberg	Simon
Daschle	Leahy	Simpson
DeConcini	Levin	Specter
Dixon	Lieberman	Stevens
Dodd	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wellstone
Exon	Metzenbaum	Wirth
Ford	Mikulski	Wofford
Fowler	Mitchell	

NAYS—22

Bingaman	Durenberger	Murkowski
Brown	Gorton	Roth
Burns	Gramm	Rudman
Byrd	Hatfield	Smith
Coats	Hollings	Wallop
Cohen	Kerrey	Warner
Craig	McCain	
Danforth	McConnell	

NOT VOTING—4

Burdick	Helms
Gore	Seymour

So the resolution (S. Res. 330), as modified and amended, was agreed to.

The preamble, as modified and amended, was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 330

Whereas the Republic of Bosnia-Hercegovina is internationally recognized as an independent state and is a member of the United Nations and a participant in the Conference on Security and Cooperation in Europe;

Whereas attempts to bring about a permanent cessation of hostilities precipitated by Serbia and Serbian-backed forces in Bosnia-Hercegovina through negotiations have repeatedly failed;

Whereas horrible atrocities are being committed by Serbian-backed forces against the civilian population, including the "ethnic-cleansing" of regions inhabited by non-Serbs;

Whereas the United States and other Contracting Parties to the International Convention on the Prevention and Punishment of the Crime of Genocide may, under Article VIII, "call upon the competent organs of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide" or any of the other "Acts Constituting Genocide" enumerated in Article III;

Whereas officials of the International Committee of the Red Cross have been denied access to prison camps and internment camps throughout Bosnia-Hercegovina even though such officials are entitled to access to such camps under Article 143 of the 1949 Geneva Convention;

Whereas United Nations and Red Cross relief convoys carrying much needed supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces;

Whereas the Security Council of the United Nations voted unanimously to dispatch additional forces to reopen Sarajevo's airport, and the delivery of supplies of humanitarian assistance to the city's beleaguered population is taking place under the protection of these forces but with great difficulty;

Whereas the Security Council also endorsed the cease-fire plan negotiated by the European Community Envoy which would place all heavy weapons in the possession of factions in Bosnia-Hercegovina under international supervision;

Whereas the president of the democratically elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance from the international community;

Whereas the situation in Sarajevo and elsewhere in Bosnia-Hercegovina has reached a critical point requiring immediate and decisive action by the international community; and

Whereas the President on August 6, 1992, announced a six-point plan, to be implemented through the United Nations, the Conference on Security and Cooperation in Europe and NATO, to respond to the situation in Bosnia-Hercegovina, and to attempt to prevent the conflict's spread into Kosova and neighboring countries: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular consideration to the possibility of "demonstrations" of force, to give effect to Security Council decisions to ensure the provision of humanitarian relief in Bosnia-Hercegovina and to gain access for United Natons and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

(2) during such meeting, the Security Council should—

(A) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision;

(B) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

(C) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes;

(3) the United States Senate strongly supports the measures announced by the President on August 6, 1992;

(4) no United States military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives; and

(5) the United States Senate pledges to provide such funds as may be necessary for United States participation in such humanitarian relief and multilateral military force

activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.

SEC. 2. (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) although international human rights monitors have observed that Romania has made progress in the area of human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonably equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

TAX ENTERPRISE ZONES ACT

Mr. MITCHELL. Mr. President, Senator BENTSEN has discussed the following matter with members of the Finance Committee, and after so doing, a majority of the members of the committee have authorized me on behalf of the committee to make a modification to the reported committee amendment.

Therefore, on behalf of the committee I modify the reported committee amendment to H.R. 11. I send the modification to the desk.

The PRESIDING OFFICER. The Senator has that right. The clerk will report the modification, and the amendment is modified.

The PRESIDING OFFICER. The Senator from Texas.

The Senate will now resume consideration of H.R. 11 which the clerk will report.

I have recognized the Senator from Texas. I apologize to the minority leader. I already granted recognition and reported the bill.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. I say to the Senate Republican leader I surely do not want to be unfair in any way.

Mr. DOLE. How do you modify a bill that is not before us?

The PRESIDING OFFICER. That modification was done by the majority leader.

The bill was not before us but the majority leader has the right or the floor manager to modify the amendment and has that right and it has been ordered that it be modified pursuant to his request. That is the status of H.R. 11.

Mr. DOLE. Further parliamentary inquiry.

The bill was not before us then; the majority leader would now have to ask consent?

The PRESIDING OFFICER. The Republican leader is correct.

Mr. DOLE. I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. Wait a minute. There is a parliamentary inquiry there.

The majority leader is recognized.

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

MODIFICATION TO COMMITTEE AMENDMENT

Mr. MITCHELL. Mr. President, Senator BENTSEN has discussed the following matter with members of the Finance Committee, and after so doing, a majority of the members of the committee have authorized me on behalf of the committee to make a modification to the reported committee amendment.

Therefore, on behalf of the committee, I modify the reported committee amendment to H.R. 11. The modification is at the desk.

The PRESIDING OFFICER. The amendment is now so modified.

The modification is as follows:

On page 816, line 3, strike "25" and insert "125".

On page 816, line 4, strike "15" and insert "75".

On page 816, line 5, strike "8" and insert "40".

On page 816, line 6, strike "2" and insert "10".

On page 816, line 16, strike "6" and insert "11".

On page 816, line 18, strike "4" and insert "14".

On page 816, line 21, strike "3" and insert "25".

On page 816, line 24, strike "2" and insert "25".

On page 817, line 6, strike "3" and insert "8".

On page 817, line 8, strike "2" and insert "8".

On page 817, line 11, strike "2" and insert "12".

On page 817, line 14, strike "1" and insert "12".

On page 817, line 20, strike "1" and insert "2".

On page 817, line 22, strike "1" and insert "2".

On page 817, line 23, strike "and".

On page 818, strike lines 1 through 3, and insert:

"(iii) in calendar year 1995 shall not exceed the sum of 3 plus the carryover amount for such year, and

"(iv) in calendar year 1996 shall not exceed the sum of 3 plus the carryover amount for such year.

On page 818, between lines 21 and 22, insert:

"(4) CERTAIN ZONES MUST BE IN SMALL CITIES, ETC.—For purposes of this subsection—

"(A) of the 75 urban tax enterprise zones, at least 40 shall be from nominated areas which are nominated by 1 or more local governments having jurisdiction over areas with an aggregate population (as determined by the 1990 or subsequent census data) of less than 500,000, and

"(B) of such zones designated during any calendar year, at least 8 shall be from areas described in subparagraph (A).

On page 821, line 19, insert "(10,000 in the case of any urban tax enterprise zone described in section 1391(b)(4))" after "20,000".

On page 822, line 22, strike "10,000" and insert "5,000".

On page 832, line 22, strike "40 percent" and insert "30 percent".

On page 833, line 5, strike "$20,000" and insert "$15,000".

On page 834, line 6, strike "and".

On page 834, line 9, strike the period and insert ", and".

On page 834, between lines 9 and 10, insert:

"(E) any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the unadjusted basis of the assets of the farm exceed $500,000.

On page 838, strike lines 12 through 22, and insert:

"(b) LIMITATION.—Subject to the limitation of section 179(b)(2), the aggregate cost of qualified zone property which may be taken into account under section 179(a) for any taxable year shall not exceed the sum of—

"(1) $10,000, plus,

"(2) 50 percent of so much of such cost as exceeds $10,000 but does not exceed $50,000.

On page 842, line 20, insert "or of operating a trade or business the principal activity of which is farming (within the meaning of subparagraph (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the unadjusted basis of the assets of the farm exceed $500,000" after "section 144(c)(6)(B)".

On page 847, line 3, strike "$25,000" and insert "$20,000".

On page 847, line 4, strike "$250,000" and insert "$200,000".

On page 849, line 15, strike "$3,000,000" and insert "$2,000,000".

On page 867, line 24, strike "employee" and insert "resident".

On page 868, between lines 2 and 3, insert:

"(B) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any tax enterprise zone resident, subsection (a) shall be applied by substituting '30 percent' for '40 percent'.

On page 868, line 3, strike "(B)" and insert "(C)".

On page 912, beginning with line 4, strike all through page 918, line 14.

On page 942, beginning with line 9, strike all through page 947, line 4.

Strike section 3011 and insert the following:

"SEC. 3011. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING."

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired."

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) 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 adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(h) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

On page 1022, between lines 7 and 8, insert:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992."

On page 1519, line 5, insert "excess inclusions (as defined in section 860E(c) of such Code) in" before "taxable years".

On page 1527, between lines 22 and 23, insert:

"(g) 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.

On page 1788, line 1, insert "and notwithstanding paragraph (3)," after "paragraph,".

At the end of title VIII, insert:

"SEC. ____. GAINS AND LOSSES FROM CERTAIN DISPOSITIONS BY FARMERS COOPERATIVES."

(a) IN GENERAL.—Section 1388 is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—For purposes of this title, in the case of any farmer cooperative—

"(1) IN GENERAL.—A farmer cooperative may elect to include gain or loss from the sale or other disposition of any asset (including stock or any other ownership or financial interest in another entity) in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons. Any such gain or loss shall be allocated proportionately to patrons.

"(2) ALLOCATION.—An election under paragraph (1) shall not apply to gain or loss on the sale or other disposition of any asset to the extent that such asset was used for purposes other than to facilitate the conduct of business done with or for patrons. For purposes of this paragraph, the extent of such use may be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

"(3) PERIOD OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the organization. Any such revocation shall be effective for taxable years beginning after the date on which notice of the revocation is filed with the Secretary.

"(4) ELECTION AFTER REVOCATION.—If an organization has made an election under paragraph (1) and such election has been revoked under paragraph (3), such organization shall not be eligible to make an election under paragraph (1) for any taxable year before its 3rd taxable year which begins after the 1st taxable year for which such revocation is effective, unless the Secretary consents to such election.

"(5) COORDINATION WITH SECTION 1231.—If an organization has made an election under paragraph (1), section 1231 shall be applied separately with respect to both patronage-sourced gains and losses and nonpatronage-sourced gains and losses.

"(6) FARMER COOPERATIVE.—For purposes of this subsection, the term 'farmer cooperative' means any farmers', fruit growers', or like association to which subpart I of this subchapter applies.

"(7) NO INFERENCE.—Nothing in this subsection shall be construed to infer that a change in the law is intended for farmer cooperatives not having in effect an election under paragraph (1) or other organizations. Any gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or other dispositions in taxable years beginning after date of enactment.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays on the bill, as modified, the substitute that is now before us.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BENTSEN. Mr. President, this modification relates to the enterprise zone proposal, the investment tax allowance proposal, and first-time home buyer credit proposal, and also makes minor modifications relating to wager excise tax, tax treatment of farmer cooperatives, and five other technical amendments.

I ask unanimous consent that an explanation of these changes and a summary of the proposed committee floor modification be printed in the RECORD.

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

SUMMARY OF PROPOSED COMMITTEE FLOOR MODIFICATION

1. Addition of Technical Amendment to Passive Loss Rules (sec. 6102(e) of the House Bill and sec. 469(g)(1)(A) of the Code).

This provision was inadvertently excluded from the Finance Committee amendment, although it was accurately described in the "Technical Explanation of the Finance Committee Amendment" at 138 Cong. Rec. S11364 (August 3, 1992). In general, the provision would clarify the rule relating to the computation of the overall loss upon the disposition of a passive activity.

2. Correction of Effective Date to REMIC Technical Correction (sec. 6102(e) of the Senate Amendment and sec. 860E of the Code).

Under the modification, the effective date of this provision would apply to "excess inclusions" in taxable years beginning after December 31, 1986.

3. Correct Effective Date For Earned Income Tax Credit Provision (sec. 4109 of the Senate Amendment).

Under the modification, the effective date of this provision would be taxable years after December 31, 1992, as opposed to December 31, 1991.

4. Eliminate H.R. 11 Provision Increasing Excise Tax on Wagering (sec. 3011 of the Senate Amendment).

H.R. 11 (as reported by the Senate Finance Committee) increases the excise tax on certain State-authorized wagers from one-fourth of one percent to one percent of the amount wagered, effective with respect to wagers entered into on or after the date of enactment. This committee modification would delete this provision from H.R. 11.

5. Treatment of certain gains and losses of farmer cooperatives (sec. 1388 of the Code).

Under the provision, a "farmer cooperative" may elect to include gain or loss on the sale or other disposition of certain assets as patronage source income. For this purpose, a "farmer cooperative" is any farmers', fruitgrowers', or like organization or association to which part I of subchapter T applies. The provision would apply to any asset used by the farmer cooperative to facilitate the conduct of its patronage business. This provision would apply, at the election of the farmer cooperative, to all dispositions of such assets during the taxable year for which the election is made and all subsequent taxable years, until revoked by the farmer cooperative. Following a revocation of its election and absent the consent of the Treasury Department, a farmer cooperative would not be eligible to re-elect patronage treatment for dispositions of assets until the third taxable year following the taxable year for which the revocation is effective.

EFFECTIVE DATE

The provision would be effective for dispositions of property occurring in taxable years beginning after the date of enactment.

6. Technical Correction to Include Provision Requiring Reporting of Taxpayer Identification Numbers of Parties in Seller-Financed Mortgage Transactions (sec. 6109 of the Code).

This provision was inadvertently excluded from the statutory text of the Senate Finance Committee amendment, although it was included in the Chairman's mark and adopted by the committee. The provision provides that, if any taxpayer claims a deduction for qualified residence interest on any seller-provided financing, such taxpayer (the buyer) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the seller) to whom the interest is paid or accrued. In general, this information must be furnished on Schedule A of the buyer's tax return for every year in which the buyer deducts this interest.

If any person receives or accrues interest from seller-provided financing, such person (the seller) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the buyer) from whom the interest is received or accrued. In general, this information must be furnished on Schedule B of the seller's tax return for every year in which the seller is required to include this interest in income.

If any person involved in seller-provided financing is required to include on his or her tax return the taxpayer identification number of another person, such other person is required to furnish his or her taxpayer identification number to such person. Information would not be required to be reported under this provision to the extent it would be duplicative of existing information reporting requirements.

Failure to meet the requirements for information reporting described above are subject to information reporting penalties under section 6723. In general, these penalties are $50 for each failure.

It is anticipated that all parties to real estate closings will make every effort to inform both buyers and sellers of the requirements of this provision, and will also facilitate (to the maximum extent possible) the exchange of taxpayer identification numbers between buyers and sellers.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 1991.

7. Clarification of treatment of veterans' benefits (sec. 8206 of the Senate Amendment).

Section 8206 of H.R. 11 as reported by the Senate Finance Committee provides that benefits administered by the Secretary of Veterans Affairs are excludable from gross income. The amendment would correct a drafting error to make it clear that all benefits administered by the Secretary of Veterans Affairs, including benefits modified after September 9, 1986, are excludable from gross income.

8. Modification to Enterprise Zone Provisions (secs. 1101–1106 and 1111 of the Senate amendment).

The following modifications would be made to the enterprise zone provisions (secs. 1101–1106, 1111) of H.R. 11 as reported by the Committee on Finance:

Designation of tax enterprise zones

125 enterprise zones.—A total of 125 tax enterprise zones will be designated during 1993–1996. Of the designated tax enterprise zones, 75 urban zones will be designated by the Secretary of HUD, 40 rural zones will be designated by the Secretary of Agriculture, and 10 Indian reservation zones will be designated by the Secretary of the Interior.[1]

Zone designations generally will remain in effect for 10 years.

Eligibility criteria for zones.—(Same as the Finance Committee amendment to H.R. 11, except that urban zones in mid-size cities will have a minimum population requirement of 10,000, and rural zones will have a minimum population requirement of 5,000.)

To be eligible for nomination as a tax enterprise zone, a nominated area will be required to have the following characteristics: (1) a population of at least 20,000 (10,000 in the case of urban zones in mid-sized cities, 5,000 in the case of rural zones, and no minimum population for Indian reservation zones); (2) a condition of unemployment and general distress (indicated by factors such as high crime rates, or designation of the area as a disaster area or high-intensity drug trafficking area ("HIDTA") under the Anti-Drug Abuse Act of 1988); (3) is one contiguous area; (4) is located within not more than two State; (5) poverty rates of at least 25 percent in each of the area's census tracts; (6) poverty rates of at least 35 percent in each of at least 80 percent of the area's census tracts; and (7) a satisfactory course of action (described below) adopted by the State and local governments designed to promote economic development in the nominated area.

Course of action.—(Same as the Finance Committee amendment to H.R. 11) In order for a nominated area to be eligible for designation as a tax enterprise zone, the local government and State in which the area is located are required to agree in writing that they will adopt (or continue to follow) a specified course of action designed to reduce burdens borne by employers or employees in the area.

Selection process and criteria.—(Same as the Finance Committee amendment to H.R. 11) All designated tax enterprise zones will be selected from nominated areas on the basis of the following factors: (1) the strength and quality of promised contributions by State and local governments relative to their fiscal ability; (2) the effectiveness and enforceability of the guarantees

[1] Designation of the 75 urban zones will be phased in as follows: 15 zones in 1993, 15 zones in 1994, 25 in 1995, and 20 in 1996. At least 40 of the urban zones will be located in cities with a population of less than 500,000.

Designation of the 40 rural zones will be phased in as follows: 8 zones in 1993, 8 zones in 1994, 12 in 1995, and 12 in 1996.

The 10 Indian reservation zones will be phased in as follows: 2 zones in 1993, 2 zones in 1994, 3 zones in 1995, and 3 zones in 1996.

that the promised course of action will be implemented, including the specificity with which the commitments enumerated in the course of action are described in order that it could be determined annually by the applicable Secretary whether such commitments actually are being carried out; (3) the level of commitments by private entities of additional resources to the economy of the nominated area, including the creation of new or expanded business activities; and (4) the relative levels (compared to other nominated areas) or unemployment, general distress, and poverty in the nominated area.

Tax incentives

Employer wage credit.—A 30-percent credit against income tax liability is available to all employers for the first $15,000 of wages paid to each employee who (1) is a zone resident (i.e., his or her principal place of abode is within the zone, and (2) performs substantially all employment services within the zone in a trade or business of the employer.

The wage credit (and the capital incentives described below) are not available to large farms (defined as businesses with assets with an unadjusted basis exceeding $500,000 that conduct farming operations as described in present-law sections 2032A(e)(5) (A) and (B)).[2]

The maximum credit per qualified employee is $4,500 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $15,000, although only the first $15,000 of wages are eligible for the credit. The wage credit is available with respect to a qualified employee, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the investment tax incentives described below).

Qualified wages include the first $15,000 of "wages," defined as (1) salary and wages as generally defined for FUTA purposes, and (2) certain training and educational expenses paid on behalf of a qualified employee, provided that (a) the expenses are paid to an unrelated third party and are excludible from gross income of the employee under present-law section 127, or (b) in the case of an employee under age 19, the expenses are incurred by the employer in operating a youth training program in conjunction with local education officials.

The credit is allowed with respect to both full-time and part-time employees. However, the employee must be employed by the employer for a minimum period of at least 90 days or 120 hours of service. Wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock (or capital or profits interests) of the employer.

To be eligible for the wage credit, an employer is required to notify all employees eligible to receive advance refundability of the earned income tax credit (EITC) of the availability of such advance refundability.

For certain small employers, the credit is refundable (and may be used to reduce tentative minimum tax). For this purpose, the term "small employers" is defined as employers with gross receipts not greater than $2 million during the preceding taxable year, although refundability is phased out for employers with gross receipts between $1 million and $2 million. For employers that are not "small employers," the credit is not refundable. For such employers, the credit is subject to the general business credit limitations (sec. 38) and, therefore, may not be used to reduce tentative minimum tax.

An employer's deduction otherwise allowed for wages paid is reduced by the amount of credit claimed for that taxable year.

Expansion of targeted jobs tax credit.—The present-law targeted jobs tax credit (TJTC) is expanded so that a person who resides in a tax enterprise zone is treated as a member of a targeted group for purposes of that credit.[3] However, the TJTC credit rate for zone residents is 30 percent. Thus, employers located outside enterprise zones are entitled to claim the 30-percent TJTC credit on up to $6,000 of qualified first-year wages paid to employees who reside within a tax enterprise zone.

As under present-law, an employer's deduction otherwise allowed for wages is reduced by the amount of TJTC claimed for that taxable year.

Definition of "enterprise zone business".—(Same as the Finance Committee amendment to H.R. 11, except large farming operations excluded.) The investment tax incentives described below (but not the labor incentives described above) are available only with respect to trade or business activities that satisfy the criteria for an "enterprise zone business." Under the bill, an "enterprise zone business" is defined as a corporation or partnership (or proprietorship) if for the taxable year: (1) the sole trade or business of the corporation or partnership is the active conduct of a qualified business within a tax enterprise zone;[4] (2) at least 80 percent of the total gross income is derived from the active conduct of a qualified business within a zone; (3) substantially all of the use of its tangible property occurs within a zone; (4) substantially all of its intangible property is used in, and exclusively related to, the active conduct of such business; (5) substantially all of the services performed by employees are performed within a zone; (6) at least one-third of the employees are residents of the zone; and (7) no more than five percent of the average of the aggregate unadjusted bases of the property owned by the business is attributable to (a) certain financial property, or (b) collectibles not held primarily for sale to customers in the ordinary course of an active trade or business.

A "qualified business" is defined as any trade or business, other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license, a large farming operation (described above), or a business consisting of the operation of a facility described in present-law section 144(c)(6)(B). In addition, the leasing to others of any structure or building located within a tax enterprise zone is treated as a qualified business only if at least 50 percent of the gross rental income from the building or structure is derived from property leased to enterprise zone businesses. The rental of tangible personal property to others is not a qualified business unless substantially all of the rental of such property is by enterprise zone businesses or by residents of a tax enterprise zone.

Additional expensing of equipment and buildings.—Enterprise zone businesses are allowed to expense 100 percent of the first $10,000 of investment in equipment and buildings. In addition, 50 percent of the next $40,000 of such investment also may be expensed.[5] The amount of such investment not expensed is eligible for accelerated depreciation, as described below.

"Qualified zone property" eligible for expensing is defined as depreciable tangible property (including buildings), provided that: (1) such property was acquired by the taxpayer (but not from a related party) after the zone designation took effect; (2) the original use of the property in the zone commences with the taxpayer; and (3) substantially all of the use of the property is in the zone in the active conduct of a trade or business by the taxpayer in the zone. In the case of property which is substantially renovated by the taxpayer, however, such property need not be acquired by the taxpayer after zone designation nor originally used by the taxpayer within the zone if during any 24-month period after zone designation the additions to the taxpayer's basis in such property exceed 100 percent of the taxpayer's basis in such property at the beginning of the period of $5,000 (whichever is greater).

The increased expensing allowance is allowed for purposes of the alternative minimum tax (i.e., it will not be treated as an adjustment for purposes of the alternative minimum tax). The section 179 expensing deduction will be recaptured if the property is not used predominantly in an enterprise zone business (under rules similar to present-law section 179(d)(10)).

Accelerated depreciation.—(Same as the Finance Committee Amendment to H.R. 11.) An enterprise zone business (as defined above) will determine depreciation deductions with respect to "qualified zone property"[6] (also defined above) by using the following recovery periods:

	Years
3-year property	2
5-year property	3
7-year property	4
10-year property	6
15-year property	9
20-year property	[7]12
Nonresidential real property	20

The shorter recovery periods allowed for qualified zone property of enterprise zone businesses will not be allowed for alternative minimum tax purposes.

Ordinary loss treatment.—(Same as the Finance Committee Amendment to H.R. 11.) Loss incurred by an individual or corporate taxpayer on disposition of certain property used in an enterprise zone business is treated as ordinary loss. The provision applies to tangible property used in an enterprise zone business for at least two years (five years in the case of real property). Loss on disposition of a stock or partnership interest in an enterprise zone business held by an individual for at least two years also is treated as

[2] In addition, the wage credit and capital incentives are not available with respect to any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises).

[3] The TJTC (sec. 51) expired on June 30, 1992, but is extended for 18 months (i.e., through December 31, 1993) by another provision contained in the bill.

[4] This requirement does not apply to a business carried on by an individual as a proprietorship.

[5] As under present-law section 179, the additional expensing is phased out for taxpayers with investment during the taxable year exceeding $200,000.

[6] Accelerated depreciation will be available with respect to property that is not expensed under section 179.

[7] Thus, the recovery period for commercial real property used in an enterprise zone business would be reduced by 50 percent, because another provision of the Finance Committee amendment to H.R. 11 increases the general recovery period for nonresidential real property to 40 years.

ordinary loss. Ordinary loss treatment is not available under the provision for intangible property, other than stock or partnership interests in enterprise zone businesses.

Stock interests eligible for the ordinary loss treatment must be acquired by the individual taxpayer on original issue from the corporation solely in exchange for cash at a time when the corporation was an enterprise zone business (or was being organized for the purpose of being an enterprise zone business) and, during substantially all of the taxpayer's holding period, the corporation qualified as an enterprise zone business. Similar rules would apply to partnership interests in enterprise zone businesses. Property used in an enterprise zone business is eligible for the ordinary loss treatment under the bill if the property (1) meets the definition of "qualified zone property" (defined above), or (2) is land which is an integral part of an enterprise zone business.

The ordinary loss treatment applies only to losses that are attributable to the period that the property is used in an enterprise zone business. The ordinary loss treatment is to apply for purposes of computing alternative minimum tax.

Stock expensing.—An individual is allowed a 50-percent deduction for the amount paid in cash during the taxable year to purchase certain stock in an enterprise zone business. The amount of the deduction is limited to $20,000 per year (with a $200,000 lifetime cap).[8] The deduction is allowed to an individual as an above-the-line deduction (regardless of whether the individual claims the standard deduction).

Stock qualifies for the expending deduction only if it was stock acquired on original issue from a domestic C corporation that: (1) meets the definition of an enterprise zone business (defined above); (2) does not have more than one class of stock outstanding; (3) the sum of (a) the unadjusted bases of the assets owned by the corporation and (b) the value of leased assets does not excess $2 million; (4) more than 20 percent of the total value and total voting power of the stock of the corporation is owned by individuals (directly or through partnerships or trusts) or by estates; and (5) the case paid for the stock is used by the issuing corporation within 12 months to acquire property (a) which is depreciable tangible property (whether real or personal) to which section 168 applies, (b) the original use of which in the zone commences with the issuing corporation, and (c) substantially all of the use of which is in the zone.

For purposes of the $20,000 annual limitation and the $200,000 lifetime cap, an individual and members of his family (as defined in present-law section 267(c)(4) are treated as a single individual.

The basis of stock for which a deduction is claimed under the provision is reduced by the amount of the deduction. In addition, gain or disposition of the stock is treated as ordinary income to the extent of the amount allowed as a deduction, and interest is payable on certain premature dispositions. The deduction is allowed for purposes of the alternative minimum tax.

Low-income housing credit expansion.—Same as the Finance Committee amendment to H.R. 11.) For purposes of the low-income housing credit (LIHC),[9] tax enterprise zones automatically qualify as "difficult to develop" areas, within which the eligible basis of buildings for purposes of computing the credit is 130 percent of the cost basis. (Thus, for LIHC projects in tax enterprise zones, the credit will be based on 91 percent of present value instead of the regular LIHC rate of 70 percent of present value.) The present-law State credit cap continues to apply.

Qualified enterprise zone facility bonds

(Same as the Finance Committee amendment to H.R. 11.)

In general.—The bill authorizes a new category of exempt-facility private activity bonds, qualified enterprise zone facility bonds, for use in areas certified as eligible to be enterprise zones. Qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which are used to finance qualified enterprise zone property (as defined generally under the bill) for a qualified enterprise zone business[10] and land located in the zone the use of which is an integral part of such a business.

Unlike the other tax incentives provided for designated tax enterprise zones, these bonds may be issued for us in all areas that are eligible for designation as one of the 125 tax designated tax enterprise zones, regardless of whether the appropriate Secretary designates the area such.[11] However, an area is eligible for use of these new exempt-facility bonds only if an application is made to the appropriate Secretary for such a designation and that Secretary certifies that the application demonstrates that the area meets the eligibility criteria enumerated above for designation (including the required course of action by the State and local governments).

Qualified enterprise zone facility bonds may be issued for use in an area only during the 60-month period following the earlier of (a) the date the zone is certified by the appropriate Secretary as an eligible area, or (b) the date on which the zone is designated the tax enterprise zone.

Prompt expenditure required.—The proceeds of qualified enterprise zone facility bonds must be spent no later than 18 months after the date on which the bonds are issued. Tax-exemption on the bond interest will not be affected if this expenditure requirement is not satisfied, however, if (a) all unspent proceeds as of the end of the 18-month period are used to redeem bonds that are a part of the issue during the succeeding six months, and (b) the issuer pays a penalty equal to three percent per year of the unspent proceeds for the period beginning on the date the bonds are issued and ending on the date the unspent proceeds are used to redeem bonds.

Special rules on issue size and use to finance certain facilities.—The aggregate face amount of a qualified enterprise zone bond issue may not exceed the excess of $1 million over all outstanding prior issues of such bonds with respect to any qualified enterprise zone business which is a principal user of the bond proceeds. For purposes of this determination, all businesses that are related parties, within the meaning of section 52 (a) or (b) are treated as a single business.

The bill exempts qualified enterprise zone facility bonds from the general restrictions on financing the acquisition of existing property (sec. 147(d)). Additionally, these bonds may not be used to finance the acquisition of farmland, including such land for use by certain first-time farmers (sec. 147(c)(2)).

Penalty for failure to continue as zone business or to use bond-financed property in the zone business.—The bill extends change-in-use rules to qualified enterprise zone facility bonds. Accordingly, interest on all bond-financed loans to a business that no longer qualifies as an enterprise zone business, or on loans to finance property that ceases to be used by the business in the enterprise zone, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs.

Further, if less than substantially all of the use of bond-financed property continues to be in the enterprise zone or the borrower ceases to be an enterprise zone business at any time within 10 years after the financing is provided, a penalty of 1.25 percent of the face amount of all qualified enterprise zone facility bond financing provided to the borrower is imposed. This penalty is in addition to the loss of interest deductions, described above.

The bill provides that the change-in-use and 1.25 percent penalties are waived in the case of borrowers that cease to qualify as enterprise zone businesses or that cease to use bond-financed property in the zone in that business as a result of bankruptcy, or solely as a result of a zone's ceasing to be eligible as such (e.g., as a result of the passage of time). Further, the committee intends that the Treasury Department may waive these penalties in the case of violatoins caused by circumstances beyond the control of the borrower if the violations are corrected within a reasonable period after the business has reason to know of them.

Partial exemption from State volume limitations.—Qualified enterprise zone facility bonds are allowed a 50-percent exclusion from the otherwise applicable State private activity bond volume limitations.

Exception from bank pro rata interest deduction disallowance.—The bill provides that the general rule requiring banks to forego a portion of their otherwise allowable interest expense deduction if they invest in tax-exempt bonds does not apply to investments in qualified enterprise zone facility bonds, if the issuer elects.

Rules

(Same as the Finance Committee amendment to H.R. 11.)

Within four months after the date of enactment, the Secretaries of HUD, Agriculture, and Interior are required to promulgate rules (by notice or regulation) regarding: (1) procedures for nominating areas for designation as tax enterprise zones; (2) the method for comparing the enumerated selection criteria; and (3) recordkeeping requirements to assist in the preparation of studies to be submitted to Congress (described below). Such rules must provide that State and local governments shall have no less than five months after issuance to submit their applications for zone designation before such applications are evaluated and compared and any area is designated as a tax enterprise zone.

Study

(Same as the Finance Committee amendment to H.R. 11.)

[8] Thus, in order for an individual to claim the maximum $20,000 per-year deduction, the individual must purchase $40,000 of qualified stock during the taxable year

Individuals are permitted to carry excess amounts (above the $20,000 per year limit) to the next taxable year (subject to the $200,000 lifetime cap).

[9] The LIHC (sec. 42) expired on June 30, 1992, but is extended for 18 months (i.e., through December 31, 1993) by another provision of the bill.

[10] For purposes of the tax-exempt bond provisions, the term qualified enterprise zone business includes a business located in a certified enterprise zone area (see below) that satisfies with respect to the certified area in which it is located all of the criteria applicable to such businesses that are located in designated tax enterprise zones.

[11] However, for areas that are not designated as a tax enterprise zone, the minimum population requirement will be 20,000 for an urban area and 10,000 for a rural area. There will be no minimum population requirement for areas located on Indian reservations.

The bill provides for a study to be conducted under the auspices of the National Academy of Sciences, analyzing the effectiveness of the tax incentives in the tax enterprise zones. An interim report of this study is required to be submitted to Congress by July 1, 1997, and a final report by July 1, 2000. The Secretary of the Treasury (in consultation with the Secretaries of Housing and Urban Development, Agriculture, and Interior) is directed to contract with the National Academy of Sciences within three months after the date of enactment to conduct this study.

Effective date

(Same as the Finance Committee amendment to H.R. 11.)

Tax enterprise zone designations will be made only during calendar years 1993 through 1996. The tax incentives provided for are available during the period that the designation remains in effect, which generally will be for 10 years after the designation first becomes effective.

9. Eliminate H.R. 11 Provision on Special Depreciation Allowance for Certain Equipment Acquired in 1992 (sec. 2161 of the Senate Amendment).

Section 2161 of H.R. 11 (as reported by the Senate Finance Committee) allows an additional first-year depreciation deduction equal to 15 percent of the adjusted basis for certain property acquired in 1992 and placed in service before 1994. This committee modification would delete this provision from H.R. 11.

10. Eliminate H.R. 11 Provision on First-Time Homebuyer Credit (sec. 2121 of the Senate Amendment).

Section 2121 of H.R. 11 (as reported by the Senate Finance Committee) provides a tax credit for the purchase of a principal residence by a first-time homebuyer. This committee modification would delete this provision from H.R. 11.

Mr. BENTSEN. Mr. President, I brought to the desk a Finance Committee modification that includes eight noncontroversial changes in the tax bill reported out last week by the Finance Committee. It also includes one substantive modification to the enterprise zone legislation that a majority of the committee has agreed to and that I want to discuss in some detail.

Since the riots in Los Angeles, my goal for the enterprise zone proposal, a goal which I think every Member of this Senate supports and shares, is to make the proposal work for the residents in those distressed areas. That is why the proposal the Finance Committee reported out is based on incentives that target the benefits to the zone residents, and that is why the number of zones was limited in the first place to the extent it was.

Nevertheless, I recognize the legitimate concerns about providing only 25 full-fledged enterprise zones. The problem is that the committee felt that we could not go a great deal higher than that without diluting the benefits to the point of meaninglessness. If we stayed with the $2.5 billion revenue ceiling that the administration get.

The committee has now decided to abandon that last assumption and commit to a much longer number of zones with the same meaningful benefits.

Those benefits would be funded by deleting the investment tax allowance and the tax credit for first-time home buyers.

I hear one of my colleagues on the other side critizing those provisions because they would expire at the end of the year. Nevertheless, these two temporary provisions provide $3 billion more which we can use to increase the number of zones.

We increased the number of zones, five times the number of zones even though we increased the amount of money by a little over twice. The reason for that is the more zones you establish, the smaller the area and hence the revenue loss. Our proposal provides that at least 40 of the 75,000 urban zones must go to cities with less than 500,000 population.

With respect to the question of which cities would qualify, I have to respond to Secretary Kemp's outrageous change that Los Angeles would not qualify. If anyone thinks that my committee would develop and endorse, an enterprise zone proposal that disqualified Los Angeles, they do not know my committee very well. Our criteria was clear—enterprise zones would be selected on the basis of relative poverty, unemployment, and general distress.

Anyone who would think Los Angeles was not distressed with $1 billion worth of damage and 58 lives lost would have to be absurd, indeed. But, nevertheless, Secretary Kemp made that outlandish and false claim that Los Angeles would not quality.

The measures that we delete, the investment tax allowance and the tax credit for first-time home buyers—were included in the original bill at the administration's request in their exact form, before the administration changed its position and indicated that they would veto the tax measure.

And frankly, no one has given a 21-gun salute to those two provisions. In fact despite the fact that the administration requested them, the two incentives have come under criticism from Senator DOMENICI who stated that the economic incentives were terribly late and short on time. Deleting those two provisions will save $3 billion and we would allocate every penny of that to the enterprise zones, so we are able to retain meaningful tax incentives and yet substantially increase the number of zones from 25 to 125.

Let me summarize some of those changes to the tax incentives.

First, the modified proposal would provide a 30 percent tax credit for the first $15,000 of wages paid by an enterprise business to a zone resident. The original proposal provided a 40-percent credit for the first $20,000 of wages.

The wage credit in the modified proposal is still very powerful, a maximum of $4,500 for each zone resident that is hired. That is a powerful incentive to hire residents of those distressed areas. The first goal of an enterprise zone should be to provide jobs to those zone residents, and that is what a generous wage credit would do.

Another problem this proposal addresses is the lack of incentives for job training. Our proposal provides the same tax credit for the training of zone residents so they can qualify for productive jobs.

Second, 50 percent expensing of buildings and equipment would be allowed for small businesses up to $50,000. That compares with 100 percent of expensing up to $75,000 of equipment and buildings in the original proposal.

The accelerated depreciation provisions available to both large and small business would be unchanged from the original proposal.

Third, individuals would be able to deduct 50 percent of the stock investment in zone businesses up to an annual cap of $20,000 for the deduction and a lifetime cap of some $200,000 for that deduction. The change here is that the original proposal provided original and lifetime caps of $25,000 and $250,000 respectively. Also, the size of the zone businesses eligible for this incentive would be decreased from $3 to $2 million of gross assets.

And, finally, farms with assets of over $500,000 would not be eligible for the zone benefits. The reason for this change is that we had members on the Finance Committee from farming States who were deeply concerned that the proposal would provide incentives for corporate farming at the expense of family farms. So that limitation was put in response to their concerns.

Those are the enterprise zone changes agreed to by a majority of the committee. I firmly believe the modified proposal represents a package that has a real chance of helping our cities and these troubled rural areas. This is a serious response to one of our Nation's most serious problems. The provisions requiring studies of zones will stay in the bill—we will continue to monitor this project carefully.

I must tell my friends that I have brought together all the studies I can find on enterprise zones. We find people who feel very strongly they succeed and others who think they do not. It is a mixed array of information.

But if the President wants enterprise zones and the leadership is supporting the President in that regard, then let us do everything we can to make them work.

I congratulate my friends on the other side, and Mr. LIEBERMAN, and Secretary Kemp who have abandoned talk about an entitlement program. I think it would be a serious mistake to put this in the category of an entitlement with so many questions still remaining.

What we would do is put limits in at the very beginning to evaluate and study the success of these enterprise

zones. Let us have the National Academy of Sciences, a nonpartisan group, evaluate it. If they are what we hope they are, if they really turn these places around with jobs and training and an improvement of the infrastructure, then let us intensify that effort in the future and continue it.

I think this enterprise zone proposal is one in which the whole Senate, including those who want more zones and those who want more revenue in the zones, can wholeheartedly support.

Mr. President, the committee modification also includes seven noncontroversial changes to the tax bill reported out last week by the Finance Committee. Five are technical. One deletes a revenue-raising provision, and one clarifies the tax treatment of farmer cooperatives.

Two technicals were inadvertently left out of the committee bill. The first clarifies a provision in the passive loss rules and is included in the House version of H.R. 11. The second technical provision correction concerns the provision that requires information reporting by parties to a seller-financed mortgage transaction. That provision was included in the chairman's markup, approved by the Finance Committee, and inadvertently left out of the statutory text of the amendment before drafting. This technical simply restores the statutory language.

Two technicals clarify the effective dates for a real estate mortgage investment conduit, and a technical provision in the earned income tax credit simplification provision.

The fifth change clarifies that veterans' benefits administered by the Department of Veterans' Affairs are tax exempt no matter when those benefits are granted.

The sixth change deletes the increase in excise tax on wagering.

And the seventh change clarifies, on a prospective basis, the tax treatment of gains and losses on the sale of assets by farmer cooperatives. The bill would allow these cooperatives to elect to treat the gains or losses as patronage source income that can be passed through to the patron owners as patronage dividends, if the assets were used by the cooperatives to facilitate business done with the patrons. That provision is necessary to give certainty to farmer cooperatives in determining the amount of patronage source dividends they must pay to patrons.

Mr. President, I yield the floor.

STATEMENT OF SENATOR SASSER UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

Mr. SASSER. Mr. President, I hereby submit revised budget authority and outlay allocations to the Senate Committee on Finance and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 287, in connection with H.R. 11, the Revenue Act of 1992.

Sections 9 (a) and (b) of the budget resolution state:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND IN THE SENATE FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

(a) INITIATIVES TO IMPROVE THE HEALTH AND NUTRITION OF CHILDREN AND TO PROVIDE FOR SERVICES TO PROTECT CHILDREN AND STRENGTHEN FAMILIES.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to improve the health and nutrition of children and to provide for services to protect children and strengthen families within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(b) ECONOMIC GROWTH INITIATIVES.—

(1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding for economic recovery or growth initiatives, including unemployment compensation or other, related programs within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997.

(2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to section 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this subsection.

The Committee on Finance has reported H.R. 11, the Revenue Act of 1992, with a committee amendment. As reported, H.R. 11 includes, among other things, several provisions that would strengthen foster care, adoption, and child welfare services, would make improvements to the Aid to Families With Dependent Children Program, better known as AFDC, would provide comprehensive substance services to pregnant women, and would modify the earned income tax credit, which benefits families. In the words of section 9(a) of the budget resolution, these provisions would increase "funding to improve the health and nutrition of children and to provide for services to protect children and strengthen families."

As reported by the Finance Committee, H.R. 11 also includes provisions that would temporarily increase matching rates for job opportunities and training programs, would provide for employment demonstration programs, and would expand a targeted jobs wage credit. In the words of section 9(b) of the budget resolution, these provisions would increase "funding for economic recovery or growth initiatives."

H.R. 11, as reported by the Finance Committee, also meets the other requirement of sections 9 (a) and (b) of the budget resolution that "to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit—by virtue of either contemporaneous or previously passed deficit reduction—in this resolution for fiscal year 1993, and will not increase the total deficit for the period of fiscal years 1993 through 1997."

As H.R. 11 as reported complies with the conditions set forth in the budget resolution, under the authority of sections 9 (a)(2) and (b)(2) of the budget resolution, it is therefore appropriate that I file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

Note that have I twice submitted similar revisions during the past two weeks in connection with the Comprehensive National Energy Policy Act, H.R. 776. Those statements appear at pages 20076 through 20078 of the CONGRESSIONAL RECORD for July 29, 1992, and page 21020 of the CONGRESSIONAL RECORD for August 3, 1992. Even though the Senate passed the Com-

prehensive National Energy Policy Act on Thursday, July 30, 1992, Congress has not yet completed action on it. Consequently, in keeping with precedent, the Budget Committee has not yet added the Comprehensive National Energy Policy Act into its estimate of the current level of budget authority, outlays and revenues.

The filing that I make today displays revised allocations and aggregates in two ways: with the estimates of the Comprehensive National Energy Policy Act excluded and included. Consistent with the precedent of excluding legislation from the current level of spending and revenues until Congress has completed action, the Budget Committee will compare its estimate of the current level of spending and revenues to the revised allocations and aggregates that exclude the revisions associated with the Comprehensive National Energy Policy Act until Congress completes action on that act. The allocations and aggregates excluding the Comprehensive National Energy Policy Policy Act will govern until Congress submits it to the President. The allocations and aggregates including that act will govern if and when Congress enacts both the Comprehensive National Energy Policy Act and the Revenue Act of 1992 in their current form.

With this explanation, I hereby file with the Senate appropriately revised budget authority and outlay allocations under sections 302(a) and 602(a) and revised functional levels and aggregates in connection with H.R. 11.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11

[In millions of dollars]

	1993	1993–97
Spending allocations and revenue totals:		
Resolution revenue totals	848,672	4,817,372
Reserve fund change—H.R. 11	499	3,153
Revised revenue total	849,171	4,820,525
Finance Committee Budget authority allocations	517,888	3,012,184
Reserve fund change—H.R. 11	463	3,051
Revised Finance Committee budget authority allocations	518,351	3,015,235
Finance Committee outlay allocations	515,512	2,998,421
Reserve fund change—H.R. 11	499	3,153
Revised Finance Committee outlay allocations	516,011	3,001,574

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11 AND H.R. 776

[In millions of dollars]

	1993	1993–97
Spending allocations and revenue totals:		
Resolution revenue total	846,672	4,817,372
Reserve fund change—H.R. 776	218	1,247
Reserve fund change—H.R. 11	499	3,153
Revised revenue total	849,389	4,821,772
Finance Committee Budget authority allocations	517,888	3,012,184
Reserve fund change—H.R. 776	218	1,247
Reserve fund change—H.R. 11	463	3,051
Revised Finance Committee budget authority allocations	518,569	3,016,482
Finance Committee outlay allocations	515,512	2,998,421
Reserve fund change—H.R. 776	218	1,247
Reserve fund change—H.R. 11	499	3,153
Revised Finance Committee outlay allocations	516,229	3,002,821

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11

[In millions of dollars]

	1993	1994	1995	1996	1997
Resolution aggregates:					
Resolution revenue aggregates	848,672	911,920	968,430	1,017,875	1,070,475
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution revenue aggregates	849,171	912,564	969,089	1,018,522	1,071,179
Resolution budget authority total	1,249,722	1,270,020	1,309,930	1,375,175	1,468,755
Reserve fund change—H.R. 11	463	641	597	638	712
Revised resolution budget authority total	1,250,235	1,270,661	1,310,527	1,375,813	1,469,487
Resolution outlay total	1,242,072	1,255,720	1,258,230	1,304,975	1,416,175
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution outlay total	1,242,571	1,256,364	1,258,889	1,305,622	1,416,879

REVISED BUDGET RESOLUTION TOTALS PURSUANT TO SEC. 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1993—ASSUMING ENACTMENT OF H.R. 11 AND H.R. 776

[In million of dollars]

	1993	1994	1995	1996	1997
Resolution aggregates:					
Resolution revenue aggregates	848,672	911,920	968,430	1,017,875	1,070,475
Reserve fund change—H.R. 776	218	300	250	243	236
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution revenue aggregates	849,389	912,864	969,339	1,018,765	1,071,415
Resolution budget authority total	1,249,772	1,270,020	1,309,930	1,375,175	1,468,775
Reserve fund change—H.R. 776	218	300	250	243	236
Reserve fund change—H.R. 11	463	641	597	638	712
Revised resolution budget authority total	1,250,453	1,270,961	1,310,777	1,376,056	1,469,723
Resolution outlay totals	1,242,072	1,255,720	1,258,230	1,304,975	1,416,175
Reserve fund change—H.R. 776	218	300	250	243	236
Reserve fund change—H.R. 11	499	644	659	647	704
Revised resolution outlay total	1,242,789	1,256,664	1,259,139	1,305,865	1,417,115

COOPERATIVE SALE OF ASSET AMENDMENT

Mr. BOREN. Mr. President, I wish to commend the chairman of the Finance Committee, the distinguished Senator from Texas, for his modification today which contains provisions to clarify the tax treatment of gain or loss resulting from the sale of an asset by a farmer cooperative. It is important to farmers and their cooperatives both in my State of Oklahoma and across the country.

Disputes between farmer cooperatives and the Internal Revenue Service over the tax treatment of gain or loss resulting from the sale of assets used by cooperatives in their patronage operations have increased in recent years. Simply put, the disputes involve whether gains or losses from such dispositions should be considered to be derived from patronage or nonpatronage sources.

The patronage/nonpatronage distinction is vital to the operation of the single tax system of subchapter T of the Internal Revenue Code. Gain from patronage sources is eligible to be distributed to patrons as a patronage dividend which is deductible to a cooperative and taxable to the patron. Of course, nonpatronage sourced income is taxable to a nonexempt agricultural cooperative whether or not it is distribution to the farmer patrons.

Agricultural cooperatives have taken different approaches toward the classification of gain or loss from the sale of assets used in the patronage operation. Some cooperatives, relying on the test used in over nine court cases, have treated this gain or loss as patronage sourced on the ground that the assets sold were directly related to or actually facilitated the marketing, purchasing, or service activities of the cooperative.

Other cooperatives have treated gain or loss from the sale of assets used in the patronage operation as nonpatronage sourced in reliance on an example in Treasury regulation section 1.1382-3(c)(2) and the IRS's administrative position that capital gain—or gain treated as capital gain under section 1231—is automatically nonpatronage sourced.

Recent court decisions have consistently applied a directly related/actually facilitates test to distinguish between patronage and nonpatronage income. In one case, a court found that gain from the disposition of a capital asset used in the patronage operation was directly related to the patronage operation and thus patronage sourced. Notwithstanding these decisions, the IRS has continued to assert deficiencies in such cases.

The position taken by the IRS in a variety of factual contexts, when considered against the applicable legal authorities as well as other IRS rulings, has created confusion and uncertainty as the proper treatment for the gain from the sale of property used or held to facilitate business done with or for patrons.

In general, this amendment recognizes that patronage-sourced income includes the gains and losses from assets used to facilitate the cooperative's conduct of business done with or for its patrons. Accordingly, this provision clarifies that gain or loss from the disposition by a farmer cooperative of any asset may be treated as patronage sourced if the farmer cooperative is able to demonstrate, as a matter of fact, that the asset was used to facilitate business done with or for its members. This provision adopts the test applied in numerous court cases and recognized by the IRS in Rev. Rul. 69-576. The amendment also allows the cooperative and its patrons to agree to a different arrangement. The provision therefore does not change present law with respect to nonelecting cooperatives. However, no inference should be drawn from this legislation that the Internal Revenue Service's interpretation of present law on this issue is correct.

Mr. KASTEN. Mr. President, let me just for 2 or 3 minutes tell the Senate where we are and where we are not, and what this new modification seems to us to be. Let me begin by saying I think it is a partial victory, because one of the struggles has been that we have been trying to expand the number of zones. Some have felt that 25 zones would be adequate, because they did not agree with the basic idea of enterprise zones, and they wanted to try out a few models. Well, we seem to have won that argument. We are going to go forward with approximately 125 zones.

So we are beyond the idea that it is just a small number, because we do not think enterprise zones will work. Maybe now we are winning the argument for entrepreneurial solutions.

But what is really happening here is that we have increased the zones; but how? The administration in the original Kasten proposal, the original Lieberman proposal, the original efforts we were making months ago, was not for 25, 125, 150, but 300 enterprise zones. That is where we began.

We started struggling with the revenue estimate. The Joint Tax Committee finally said it was going to be $2.5 billion, because the Finance Committee had a $2.5 billion price tag on their revenue with regard to their enterprise zone proposal for 25 zones. We have been working within that $2.5 billion and we were able, the Senator from Connecticut and I, to, by making some changes, to get 150 zones and still stay within that revenue estimate which was actually $2.498 billion.

We would not have had a point of order against us. We would have won the amendment, and we would have been successful. And I believe that is why this change has been made. Anybody here can count votes. The Senator from Connecticut and the Senator from Wisconsin would have won. We would have defeated the committee position, and we would have had 150 zones at a cost of $2.498 billion.

Now we have some confusion here. We are still not at the 300 we wanted, because we now have 125 zones. How do we get those 125 zones? What within this bill has changed? No. 1, the final committee modification for the investment tax allowance. That was whereby we were going to encourage people to buy machinery in order to put people to work, and they were going to be able to get a speedup, if you will, of their depreciation. That was originally an administration proposal. I believe it was in the State of the Union Address, that this was one of the ways we could get the immediate kick we wanted, the push right away, not long term. This was first year.

All right, that has been thrown out. That was in the Finance Committee bill and has been thrown out by the committee modification, in order to go from $2.5 to $5.5 billion, which is the price tag of the present Finance Committee bill, as modified.

So we no longer are concerned, I guess, about incentives for small business, to put plant machinery into America—not just zones.

What else has the Finance Committee modification thrown out? After all of the talk about, again, the engine that was going to pull us out of the recession, about incentives that were going to make a difference right now, we have decided home building and real estate is no longer key, because the modification has knocked out that important incentive in order to get to the $5.5 billion estimate. I do not know what my friends in real estate and home building are going to say about that. They are probably just learning about it right this minute. But the modification knocked that out in order to somehow work this political solution to what was a difficult problem for the Finance Committee.

So, the modification has knocked out the investment tax allowance to help people invest in machines and equipment that are going to provide jobs, and it has also knocked out the first-time homebuyer and is no longer concerned about housing and real estate leading us out of this recession.

What have we ended up with? We have ended up with 125 zones. But what do we have in those zones? We used to have, as I understood it, an $8,000 tax credit—and the chairman referred to this a moment ago—but now that $8,000 tax credit, talking about the importance of wages and wage earners, has gone to $4,500. So we have cut that about in half, as I understand the proposal, and we are still trying to analyze it. What have we forgotten about?

It is very hard to have employment if you do not have employers. It is very hard to have jobs and wages to which you would apply a credit if you do not have people providing those jobs.

What is missing here, and has been missing in the Finance Committee proposal from the very beginning, is some kind of incentive for people to target their investment for employers to decide to put plant, machinery, and equipment into a zone, so that we could then have the wages that would then be subject to the credit.

It is pretty hard to have wages if you do not have jobs. It is pretty hard to have jobs if you do not have people putting plants, machinery, and equipment into these zones.

So we are missing the capital gains component and missing the incentives for locating the plants in the zones. We have forgotten about the employer. We

are thinking about the employment or the wages, even though we reduced that.

Now, I believe that what we need are effective tax incentives, and I believe they ought to be in this bill. The capital gains provision is critical because under the static models, unfortunately, the Joint Tax Committee, and others we are working on, even under those models, the Government loses no revenues unless the zones are successful and can result in capital gains that can be realized under the finance bill, even as modified.

You pour all of these different tax drains into the zones up front before you know whether the business will even be successful. The key is you cannot have jobs without people providing the jobs. You cannot have employees without employers. And there is no incentive, either, to invest anywhere, particularly in regard to investing in the zone.

I am hopeful that we can, at this particular moment, step back, review where we stand, and see what we can get with the Lieberman-Kasten kinds of proposals now that we have a $5.5 billion number to shoot at as opposed to just $2.5 billion. I certainly do not want to give up on the first-time home buyer component. That is important. And I still believe real estate and home building can help pull us out of the recession.

I am not crazy about giving upon the 15-percent investment tax allowance, either. That is something we need and I hope we can keep in the bill. So we might not be able to have a price tag of $5.5 billion on a revised program. It might be somewhere between $2.5 and $5.5 billion.

So, yes; this is a victory. Yes; we have expanded the zones. Yes; the mayors across this country, Republican Democrat, and Independent, have had their voices heard in this body. They said they would not accept just 25 zones, and now we have won. So we can claim victory on the numbers. We can claim victory on the idea that enterprise zones will work.

But what kind of enterprise zones? And, particularly, where are the incentives to provide the jobs and produce the employment that is needed. Just to have the employment we need employers. And the key here is there is little for investing right now in plants and machinery that are going to provide those jobs.

I also wish we would not have to back up on the wage credit all the way to $4,500.

So I think we have some work today, and I see the Senator from Connecticut, the sponsor of this amendment. And we say that we have won part of this battle. Maybe even we can say we won more than half. But we have not won a number of key parts of this battle. My hope is that when we have a chance to review this modification, we can come back and see if we cannot still improve, particularly in terms of incentives for employers, incentives of people with capital to invest. Because without jobs and without job creators, we sure as heck are not going to have wages upon which we can have tax credits.

So I hope we can get off of this subject in a moment, and go on with probably an IRA amendment—I see a chart here with regard to IRA's—and come back and visit this question later.

We have won an important battle, the mayors; Republicans, and Democrats have won a battle. We have the numbers up which are part of the battle. But we still do not have incentives that we need in order to make this program as good as it can be.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

Mr. President, I rise to join my colleague from Wisconsin, and cosponsor of the amendment, regarding enterprise zones, and to speak just a bit about enterprise zones. And I particularly rise to thank the chairman of the Finance Committee, the Senator from Texas, for the modification that he has made to the enterprise zone component of the urban aid bill that is before us, because I think it is significant and it certainly sets the context for the kind of bipartisan agreement that there ought to be on enterprise zones.

It is directly responsive to the needs of a lot of cities in rural areas and Indian reservations around this country, and it is responsive to the calls and pleas of so many of the mayors of our cities and smaller areas, rural areas, around the country, for just this kind of help.

Mr. President, in my opinion, enterprise zones are a concept that works. They started actually in Connecticut in this country about 10 years ago. There are now 36 States and the District of Columbia that have enterprise zones. According to numbers we put together speaking to the economic development offices of the various States and the District in that 10 years, more than $28 billion has been invested in enterprise zones, creating 258,000 new jobs.

And all that without the most significant sweetener that was contemplated when the idea was first introduced in America, and that is the Federal tax incentive. Let us remember, when it was first introduced in Congress, it was very much a bipartisan proposal, associated appropriately with then Congressman—now Secretary—Jack Kemp, but also cointroduced by Congressman Bob Garcia of New York.

As the proposal took shape within the Finance Committee in response to the troubles, the riots in Los Angeles earlier this year, I think we have made significant progress, and very significant progress in the modification proposed here.

The appeal of enterprise zones as an instrument or urban aid are that by the use of tax incentives they leverage every dollar spent—or one might say lost—in lost revenue by the Federal Government by drawing in a multiple of investments from the private sector. So that, unlike other ways in which the Federal Government can and in fact should assist cities, as opposed to a dollar's worth of service for a dollar's worth of investment, here, every time we invest a dollar in tax incentives in one of the poor areas of our country, we get back at least $3 from the investment.

That is what the experience of the last 10 years shows. And we directly help the mayors in dealing with one of their most serious problems and one of the cities' most serious problems, which is the decline of the urban tax base and the poor rural tax base. Businesses depart; they take their tax revenue with them. Cities are compelled to rely on a small tax base, and have to increase taxes very often on residential taxpayers, and too often force too many middle-class taxpayers out of the city, increasing the decline of the cities.

Second: Obviously, we hope that enterprise zones—and we have seen over the 10 years that they can and will—bring capital into the cities and create jobs for people who live there. I think the proposal, the modification, that the Senator from Texas has made significantly achieves those goals.

It is true that one of the elements that I have favored and others have favored, which is the use of a capital cost reduction, some form of a capital gains reduction, targeted for the central city, is not there. And I hope we can find a way to put it there.

But let us not overlook the fact that there are at least two very significant capital cost reduction incentives in the proposal of the committee. One, a stock expensing of 50 percent deduction, limited to $25,000 per year; $250,000 lifetime cap per taxpayer. You can put in $50,000, and deduct $25,000 right at the outset. That is going to be a tremendous incentive to move capital into companies in the poor areas. And, second, is the capital expensing equipment, expensing up to $75,000, I believe, in the last proposal.

I would like to see us go even further. I know in my home State, in New Haven, CT, we have an enterprise zone in which a lot of new startup, high-tech research oriented businesses are locating, the kind that really could attract more investment, if there was a capital gains incentive. People would be willing to put money down, hoping for a dramatic increase, if they knew that

the capital gains taxes would be reduced in the end.

I want to say that I am personally grateful for the tremendous progress that has been made. I think the good news here for America's poorest cities and rural areas is that there is going to be enterprise zone legislation adopted this year, and it is going to be good legislation.

What remains is some discussion that I would consider to be effectively around the margins of the issue, to try to make it as good as we possibly can.

So I look forward to joining with my colleague from Wisconsin in a more detailed consideration of the modification that we have just been informed of.

But I really hope—understanding that this is a zero-sum, and being limited in what we can do by the revenue limitations we have and that we have to make some choices here—that we do the best we can to reach an agreement that a strong, bipartisan majority can support when it comes to enterprise zones.

And it is in that spirit that I again express my gratitude to the chairman of the Finance Committee for the substantial progress that has been made in this discussion, and for hope that it gives poor people that they are going to get some help from this Senate and Congress his year.

Mr. BENTSEN. I thank the distinguished Senator from Connecticut for his comments concerning that.

When he talks about an equity approach and trying to cut the cost of capital, we certainly did that. And part of it was the Senator's recommendation that we accepted when we talked about the expensing of 50 percent of stock investments in business up to a cap of $20,000 a year and an overall cap of $200,000. That was the Senator's suggestion. We took it.

I listened to my friend from Wisconsin make his comments about how disappointed he was that we had to cut our wage credits $4,500. I looked at the wage credit in his on the earned income tax credit of $357—$4,500 to $357.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, with reference to enterprise zones, I think there obviously has been a significant change on the part of the majority and it is going to take some time to analyze.

Of course, the down side is that you get pretty much the number of zones, but you do not get the capital gains provision. To do that, you sacrifice two portions of the President's program—investment tax allowance and first-time home buyer credit, that pick up the $3 billion that was pushed into the other proposal. I might suggest it come from the millionaire IRA provision or others, but that is not what happened.

So we will have that debate later on IRAs. But it is a significant change. It is going to be some time, I think, before we can find out precisely what the distinguished Senator from Wisconsin, the Senator from Connecticut, and others, who have been the leaders on enterprise zones on a bipartisan basis, wish to do.

But I hope, having said that, we could move on to other features of the bill, have a debate, and have some votes. I understand the Senator from Rhode Island is prepared to do that.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I was going to proceed with an amendment.

If the Senator from Louisiana has a short comment, I would be glad to yield, because I will be some time.

Mr. BREAUX. Will the Senator yield?

Mr. CHAFEE. I am happy to yield.

Mr. BREAUX. I have some general comments that should not take too long, unrelated to any amendment.

Mr. CHAFEE. By not too long, would the Senator say 10 minutes?

Mr. BREAUX. Yes.

Mr. CHAFEE. All right.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair and I also thank my colleague from Rhode Island. I will not be that long.

I would like to talk about one very important provision of the bill.

Mr. President, all of America watched as Los Angeles burned a few months ago. A great deal of sympathy went out to the people of Los Angeles and California, because the problems that they were experiencing really were a result of a lot more factors than the Rodney King verdict.

Let us face it. The problems in Los Angeles had been brewing for a number of years. The Rodney King incident was just the culmination of a high degree of frustration that the citizens of Los Angeles were experiencing because of a number of factors, including poverty, lack of jobs, lack of training.

Mr. President, I suggest that there are a lot of Los Angeleses throughout the United States. They are not named Los Angeles, of course, but they are cities throughout this country that have the same potential problems that erupted in Los Angeles. That mass explosion of humanity resulted in the destruction of property, the death of innocent citizens, and the destruction of a lifestyle of law-abiding citizens who work hard every day, pay their taxes, pay the mortgage, and try to send their children to school.

There are a number of cities that have the same circumstances, as we saw highlighted on the floor of the Senate in the summer of 1992. These cities are just waiting for a Rodney King incident to cause an explosion of frustration and violence.

That is something that we, in America, cannot be very proud of and, in fact, have to bear the responsibility for the conditions that allow these circumstances to occur.

The legislation that the distinguished chairman of the Finance Committee, the Senator from Texas, brings to the floor today is an approach that I think addresses not the Rodney King problem per se, but the circumstances that led up to a city burning in America in 1992. The degree of frustration that we saw exhibited in those violent outbreaks I think was in a large degree, due to the frustration of these young people with a system that does not provide them the jobs and education to give them the hope and opportunity to go out into the real world and earn a decent salary in order to achieve the American dream.

The enterprise zone legislation, crafted by the Senator from Texas, brings hope. It brings opportunity. It encourages responsibility in what I think is a major effort—the first by the Congress—to address these types of social problems across the board.

I would like to speak to one particular provision of the enterprise zone proposal that I think is of major importance.

The bill is replete with tax incentives to get companies to locate where they might not locate otherwise—in enterprise zones, areas of high poverty, areas of high risk for any businessman. It is important that business does not turn their backs on these areas; that business sees an opportunity to be successful inside the central cities and in many rural areas of this country.

I know, and I think every Member would realize, that American business is not going to go locate in a different area unless there are some incentives. This legislation contains a number of tax incentives that make it profitable for these companies to locate an expansion of their business, or to locate their principal business enterprise inside one of these areas that the administration will designate under guidelines set out in this legislation.

So, there will be incentives to get the businesses to locate in these areas. But that is not enough. It is not enough for a business that makes, for instance, widgets, to locate in an enterprise zone if nobody in that zone can go to work for the widget factory because they do not know how to make widgets.

I daresay that what we saw in the Los Angeles riots; the fights, the brutality, the gangs—highlight the fact none of the members of those gangs would know how to go to work at a plant if the plant was open in that area tomorrow morning and put out a sign and said we have 500 jobs for people who want to make widgets. None of those young people, I would say, are qualified to go to work in that widget factory because they do not have the

training, they do not have the background, they do not have the education.

So it is not enough to merely get a business to move its physical plant into an enterprise zone unless it is able to hire people from that area. And they can only hire people from that area if there is a training program that has taught them or will teach them how, in my example, to make widgets, and to do so with the necessary degree of productivity.

Therefore what I want to point out in the chairman's legislation is the wage credit for those businesses that locate in that zone. That wage credit is a 30 percent credit for wages that are paid to employees in that area. The definition of wages includes not only the salary that is paid to that employee in that area, but also includes any training expenses that are incurred by that employer in operating a youth training program or a youth apprenticeship program.

Mr. President, that is very significant. This is the first time in my memory that the Federal Government is involved in giving tax incentives to a business to establish a youth apprenticeship type training program.

This legislation, crafted by the chairman, will say to that company that if it hires a person who is over the age of 19 years old, that it would receive a 30 percent credit on the expenses that it incurs to send the employee to a third party for training. If that employee is under the age of 19, that company will get a 30 percent credit for the expenses that are incurred in operating a youth training program in conjunction with some local education officials.

What we are doing in this legislation for the very first time in my memory, is to encourage businesses to locate in enterprise zone areas. Everybody agrees with that. But the second ingredient is to encourage them to participate in training programs to train youngsters to work in that widget factory.

There are hundreds of thousands of young people in this country who become frustrated with high school. They sit in class with a glazed-over look in their eyes as the teacher tries to explain calculus, chemistry, physics, and complicated subjects that really have no relation to what that student is going to be doing in the real world. As a result, that bored youngster gets kicked out of school, drops out of school, or gets frustrated and leaves high school because he believes that what he is learning, or not learning, is not going to have any relation to the real world that he or she is going to live in.

This legislation would encourage employers to set up apprenticeship programs to train youngsters in the skills needed to go to work in plants that are located in their neighborhood.

I think this provision is going to give young people in this country some degree of hope and optimism. They know if they stay in school and participate in this apprenticeship program that when they get out of high school they will have two things. Number one, they will have a high school degree. But, number two, they will have a skill that allows them to go out in the real world and work for a real employer located in their neighborhood. They will have the skills to go to that employer and say: "Hire me, I can provide a service to your company."

Mr. President, I think the training incentives are key to helping distressed areas around the country. Just perhaps, this legislation with its training incentives will prevent the outcome we saw in Los Angeles, from occurring in other cities that are at the boiling point.

I commend the chairman and members of the committee. I will have more to say on some other features of the legislation at an appropriate time, and therefore yield back the floor.

ISRAELI LOAN GUARANTEES

Mr. DOLE. Mr. President, the White House is the ultimate hot seat.

The heat is always intense when the President makes decisions affecting the national security of the United States.

It can be even more intense when the President's decisions—taken in the American interest—are at odds with the policies or actions of a close ally.

And the temperature shoots to the boiling point when those same Presidential decisions are contrary to the strongly held views of well-organized and politically potent groups and individuals in this country.

President Bush occupies the hot seat and, in the view of this Senator, does so with wisdom, foresight and determination. When the national security of the United States is at stake, he does what he must, period.

On no issue has President Bush demonstrated this quality more vividly than on the issue of loan guarantees for Israel.

He has taken a lot of heat. He has been the target of a lot of cheap shots.

But he has stood his ground, because he believed he was doing the right thing for the United States.

And today the verdict is in—President Bush was right.

Today, the President and Israeli Prime Minister Rabin have announced agreement on a package of loan guarantees that will advance overall United States interests in the region; will encourage, rather than undermine, the peace process; will bolster, rather than undermine, those Israeli political forces most strongly inclined to seek a lasting peace.

President Bush will be meeting with the congressional leadership this afternoon, if our floor schedule permits, and will ask us to move quickly to approve the program.

This important decision was taken in the context of yesterday's announcement of a resumption of the peace talks, and the expectation that Rabin's government will bring to those talks creative new proposals that could move the process forward.

As both President Bush and Prime Minister Rabin said this morning, the decision reflects a renewed warmth in United States-Israeli relations, underscores the profound convergence of fundamental interests between our two countries, and now—with the election of Rabin—demonstrates the strong convergence of goals and views between our two governments.

President Bush deserves our commendation. He did it right—and in doing it right advanced the national interest of the United States, enhanced the long-term security of Israel, and renewed the hope for real progress toward a lasting peace in the Middle East.

ISRAELI LOAN GUARANTEES

Mr. CHAFEE. Mr. President, I would like to briefly comment on the very exciting news today from Kennebunkport that President Bush and Israel's Prime Minister, Yitzhak Rabin, announced an agreement on a loan package for Israel. This is a major breakthrough, for it signifies the validation of the President's leadership and discipline in resisting earlier loan guarantee requests without the cessation, or requirement that the President had that no loan guarantees, except there was a cessation of new settlements in the West Bank and the Gaza Strip.

The President's position as we all recall was roundly criticized by many in our Nation. His position is quite different from that of the present Democratic candidate for President. President Bush should be commended for taking a visionary position which has now contributed so significantly to a Mideast peace agreement. I think it is without dispute that had President Bush listened to his critics the Shamir government most likely would still be in power, the settlements would be continuing, and the peace process would be deadlocked.

Now, Mr. President, I think it is only fair—this is a political year—to note that the President's position was quite different from that of Governor Clinton regarding the loan guarantees. When Governor Clinton was asked about the subject on "CBS This Morning" he stated the guarantees should be granted unconditionally because we have a 20-year commitment to help relocate Jews from the former Soviet Union.

Mr. President, President Bush stood up to his critics. He took the many slings and arrows and today he has

shown his policy was absolutely correct. So I salute him as I think we all should. The American people and millions of Arabs and Israelis alike, I believe, should rejoice that we have moved closer to a meaningful peace in the Middle East.

TAX ENTERPRISE ZONES ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, America has waited a long time for this moment, especially that segment of America that is quite literally the backbone of our Nation, the hard working middle class. While I cannot agree with all of the provisions in this Finance Committee legislation, I can safely say that some of the measures are necessary and long overdue. Particularly, Mr. President, I am speaking about the individual retirement account—the Bentsen-Roth Super IRA.

I don't want to take the time to outline the countless proposals adopted by this body over the last 8 to 12 years that have not only bruised but pummelled the American taxpayer. The pressure Congress—with its appetite for unbridled spending—has placed on the hardworking American family is crushing. Aside from strapping the weight of the Government on the back of the middle class, Congress has done little, if anything, for the average American family, that stable institution upon which Government depends almost entirely for its sustenance.

It's ironic. Without bleeding middle America of its resources, Government would dry up like a desert bed after a storm. On the other hand, Government does next to nothing to provide for the economic needs of this same segment of society. Today we can change that, Mr. President. Today we can do something that—as an editorial writer back home wrote this weekend—is "good for people and for the country."

Today we can give back to Americans their individual retirement accounts—a critical step for the future of our country that is long overdue—a step that I have advocated time and again, standing on this floor, suggesting that the biggest mistake Congress made in the eighties was to take away the IRA in the first place.

Restoring the individual retirement account with the Bentsen-Roth super IRA is a necessary measure to correct that mistake—a measure that is needed not only to help middle class Americans remain economically vital and self-reliant, but to strengthen America's economic future. In providing incentives for middle America to save, the Bentsen-Roth IRA has family written all over it. It is in harmony with the values that made America: thrift, hard work, sacrifice, self-reliance, and family unity.

It promotes these concepts, allowing working taxpayers to contribute up to $2,000 annually; nonworking spouses can contribute another $250, indexed for inflation in $500 increments. It is flexible, providing IRA contributors the option to select the tax deduction that best suits their needs, either when they contribute the money or when they withdraw it upon retirement. It's even possible for the taxpayers to combine their IRA's—to take half the deduction up front, when they deposit the money, and the other half later on, when they withdraw if after 5 years or more.

Likewise, Bentsen-Roth gives American families peace of mind, control over their finances by allowing IRA contributions to be withdrawn without penalty to make a downpayment on a first home, or to pay for college, or to defray catastrophic health care costs. This IRA can even be used in emergencies, after a specified period of unemployment. And this is what's so wonderful about Bentsen-Roth, Mr. President, it allows families to work together. Parents can help their children with their first-time home purchase, or college with expenses. Children can help their parents with medical costs.

Even grandparents and grandchildren can withdraw IRA funds penalty free to help one another. It's multigenerational, built on concepts that have been instrumental to the success of the American experience. I'm proud to have my name on this legislation. And Chairman BENTSEN and I are not alone in supporting it. This one proposal has 76 cosponsors in the Senate and over 250 in the House of Representatives. A clear majority.

If it doesn't pass, Mr. President, Bentsen-Roth will demonstrate a serious flaw in the dynamics of the legislative process and the inability of these two powerful deliberative bodies to provide even the most basic and necessary economic measures for the American people.

And when I say "people," I mean all Americans, not only the middle class, but even those working to join the middle class. In fact, Mr. President, along with the Bentsen-Roth Super IRA, we will also consider another IRA proposal I introduced in committee—a proposal that will allow families receiving subsidies through Aid to Families With Dependent Children to also save money for college educations.

Under current law, such responsible savings—such responsible behavior—actually penalizes our families on welfare and tragically affects their children. Once these families save over $1,000 for college, their AFDC benefits are in jeopardy. One example of a young woman in New Haven, CT, illustrates my point. Sandra Rosado, trying to break out of the welfare trap that has locked in her mother and seven brothers and sisters, worked at a local community center after school to save money for college. In all, she managed to save $4,900 toward her dream of becoming a teacher.

And how was she rewarded? A stiff penalty from the Connecticut Commissioner of Income Maintenance took away her savings and cost her mother over $9,000 in benefits because under current law the family violates the Federal AFDC eligibility rules.

This isn't how we encourage self-reliance; it's not how we inspire our children to become more than we are and to work to help them toward that end.

I have legislation that will change this, legislation that will allow families like the Rosados to save for their children's educational future without disqualifying them from Government assistance. This will be done through IRA's, and I am pleased that Chairman BENTSEN has joined me to meet this objective as well.

This is good. It will be productive, a strong step toward self-reliance and personal responsibility. Still, it does not overshadow the most important reason why I support individual retirement accounts. Quite simply, I support IRA's because right now almost half of all Americans feel ill-prepared for retirement. Bentsen-Roth will help them prepare.

Tragically, Americans aged 45 to 54 average only $2,300 in financial assets. This is bad for American families, and it's bad for America's future. For the family, this dirth of savings is especially concerning because Americans are living longer.

Statistics indicate that by the end of the century Americans will be living longer in retirement than in their working years. For the country, this lack of savings is disconcerting because our future ability to compete with nations like Japan will rely on a solid pool of savings for research and development. Investment is our key to a successful, prosperous future; savings is the key to investment. Both will result in higher paying jobs for Americans.

For those who do feel prepared for their retirement—those who already have solid savings accounts—the Bentsen-Roth Super IRA will help them become even better prepared. At its foundation, this is what our proposal is all about, providing for self-reliance and economic security in retirement. This is perhaps of greater significance for working women, who, by a large margin, feel less prepared than men to meet the financial needs of retirement.

While I believe passing Bentsen-Roth is essential for the family as well as for security in retirement, I am equally adamant about what it will do for America. Even the most conservative estimates show that Bentsen-Roth will provide $40 billion in new savings—savings as essential to the health of our

economy as air is to life. There is no getting around the fact that if America is to remain first among equals in the global community, it will be done by investing in our future, by creating jobs, building homes, researching, developing, and providing educations that are second to none.

If we are to progress in these areas we can no longer afford to penalize savings; we must encourage the growth of capital. This will continue to bring down interest rates and encourage investment.

One study, by the well-respected Lewin/ICF, shows that Bentsen-Roth will have a positive and immediate affect on interest rates. Another study by DRI/McGraw Hill, shows that the Bentsen-Roth IRA will stimulate the economy in the short-run without the "Treasury seeing a measurable impact on the deficit." By 1996, it is estimated that the change in real GNP will be about an $80 billion increase, housing starts will go up by almost 50,000 a year, and over 1 million new jobs will be created.

Another study even estimates that GNP will increase by $447.2 billion by the year 2000, and $12.6 billion in new revenue will result from increased economic growth, bringing with it increased tax revenues.

Mr. President, America cannot afford to let this opportunity pass. Besides the positive affect Bentsen-Roth will have on the economy, beyond the strong statement it makes in support of the American family and the self-reliance it will promote, Bentsen-Roth will prove that when it comes to doing what must be done, Congress can work; both sides of the aisle can come together, setting politics aside, to promote pro-growth, pro-family, pro-America initiatives. The Bentsen-Roth Super IRA must be passed.

With the support it already has in both Chambers of Congress, and the need we have to once again return to supporting those who support Government, there is no reason why Bentsen-Roth cannot be passed.

AMENDMENT NO. 2933

(Purpose: Striking the IRA provisions)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. DURENBERGER, proposes an amendment numbered 2933.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 875, beginning with line 13, strike all through page 885, line 16, and insert:

PART I—IRA DEDUCTION

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the exess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

On page 893, line 7, strike "2011(b)" and insert "2021(c)".

On page 893, line 9, strike "(9)" and insert "(8)".

On page 893, lines 13 and 14, strike "(other than a special individual retirement account)".

On page 894, strike lines 19 through 21.

Mr. CHAFEE. Mr. President, this amendment is very simple. What it does is to strike that part of the committee amendment which restores fully deductible IRA's, and creates the new special IRA's. In this, my amendment, we do retain the penalty-free withdrawals from existing IRA's for education, for first-time home buyers, for medical expenses, et cetera.

The chairman of the committee has proposed to provide greater access to individual retirement accounts in the hope that this will encourage more people to save, thereby improving our Nation's very low savings rate.

Let me say that I share the chairman's concern over the low level of saving that exists in our Nation. Americans save a significantly lower portion of their incomes than do their counterparts in many of our major trading partners. This low level of private savings hampers our ability to make the necessary investments to remain competitive in the world economy. To make matters worse, the Federal Government is running record budget deficits, pushing our national saving rate even lower.

However, I am skeptical that expanding IRA's will improve personal savings. I do not think this proposal will work for two principal reasons.

First, evidence based upon the expansion of IRA's from 1982 to 1986—Mr. President that was the period in which we changed the law in 1981 allowing, starting in 1982, a very considerable expansion of IRA's.

The evidence, based upon that expansion from 1982, 1983, 1984, 1985, and 1986, is inconclusive.

Second, whatever gains we may make in improving private savings will be fully offset by decreased public savings, public savings being the deficit.

Let me explain, first, why I do not think expanded IRA's will have much effect on private savings. I think it is important that everybody realize what the current law is, what can be done.

Before these amendments, the existing law in the Nation is that fully deductible IRA's, $2,000 fully deductible, are currently available for single taxpayers with incomes up to $25,000, or families with income up to $40,000, and by fully deductible, I mean the $2,000 is all deductible.

The Joint Committee on Taxation estimates that in 1990, four out of five families, 80 percent of families in the United States of America, were able to contribute to an IRA and take the full deduction, full advantage, of the total tax deduction—80 percent of the families in the United States of America.

Mr. President, this figure would be even greater if you included those American families who are able to con-

tribute to an IRA and take a partial deduction, because the way it works is, as a family you can take the $2,000 deduction up to $40,000 income, and then you can take a partial deduction up to $50,000. In other words, your income is $45,000; you can take $1,000 deduction, partial, not the total.

So if you include those families, then even more than 80 percent of the families would be able to take advantage of some part of the IRA deduction.

So, Mr. President, the chairman's proposal to expand existing IRA's will have no impact on the majority of Americans since most, as I say, can already take advantage of this tax break.

Let me reemphasize. More than 80 percent of all taxpayers with earned incomes can currently contribute to the IRA, take a tax deduction and defer savings on the earnings to the account until the money is withdrawn.

That is what an IRA is, Mr. President. You contribute $2,000, you deduct it from your income, you put it in there, it appreciates with either appreciation or interest. There is no tax to the individual during that period and when the money is taken out at age 72 or earlier under one of the circumstances I previously mentioned, that is when the tax is paid.

So, Mr. President, this represents a significant savings incentive that already exists for an overwhelming number of American families and individuals.

So the chairman's proposal is directed to relatively few families. What the chairman has proposed is everybody be able to do this, and mostly, upper-income families that currently cannot take an income deduction for contributions.

Some call this a millionaire's IRA. Certainly it is a bonanza for millionaires, no question about it. Everybody, the richest person in the country, will be able to put the $2,000 in and get the deduction.

Mr. President, I think it is important to remember that families who will benefit from this proposal are now only precluded from taking the deduction. In other words, even now the rich families can put in the $2,000. It is not a deduction at the time. But the appreciation, the interest, the growth in the account is not taxable to that individual while it is incurring.

So there already exists considerable incentive for an individual at the upper-income brackets to go ahead and put money in. No other way can he put money in some kind of an account and have the interest or appreciation completely deferred.

Economists have studied whether savings incentives, such as IRA's, are effective at encouraging families to save more. This is the nub of the problem, Mr. President. Results from these studies: Do IRA's promote more savings in the United States of America? The studies are inconclusive.

Some economists have come to the conclusion that they do have a positive effect on savings. Several of us, such as Jane Gravelle with the Congressional Research Service, in a 1989 report have concluded: "The evidence does not support the contention that IRA's increase savings."

Obviously, there are a number of factors that go into a family's decision to spend or to save, and tax incentives is just one of these factors.

I do think, Mr. President, we can look to past experience to gain an insight as to how these savings incentives might work. When originally enacted, IRA's were only available to those workers who had no access to an employer-provided retirement plan. That is how these things came about.

Most of us remember this was the era when Keogh plans were developed, other savings programs, for those individuals who might be self-employed or working in an organization that had no retirement plan. We had to do something for those folks. And so the Keogh and the IRA's were developed. At that time, it was available only to those workers who had no access to an employer-provided retirement plan.

However, the law was changed, as I mentioned, in 1981 and starting in 1982, up through 1986, IRA's were available to all taxpayers, just as the chairman's proposal would do—all taxpayers, providing they had earned income.

So what happened to the savings rate?

Mr. President, here is a chart. As you note, the red on the chart is here that the law was changed; as you note, before the law was changed, the investment in IRA's. In other words, up to here, only those who did not have an employer-provided retirement plan could use an IRA.

And so here was the percentage—these are percentages—personal savings as a share of disposable personal income. These are the percentages on the side for the Nation. That, it seems to me, is a significant factor.

Is it doing any good? We see in 1982 it was about 7 percent. In 1981, 7.5 percent. So we changed the law. Somehow this is going to encourage savings. And what happened? It came down, as you can see, in a very steady fashion until 1986.

Here is where individuals can put them in. We changed the law to make them accessible to more individuals, anybody, a millionaire, anybody could come in, just like the proposed law, and noticed the savings rate dropped over 7 percent down to a little over 4 percent.

In 1986, we changed the law again. We went through the tax reform measures, you will recall. We said why should we permit these individuals, many of them have pension plans available, why should they be able to have an IRA?

Our objective, you will recall, Mr. President, was to reduce the rates, the overall rates, and we did bring them down, and we changed the law in 1986. The immediate effect was the next year the savings rate was lower, but then it built up again, and so here we are coming upward until currently it is about 4.5 percent.

Mr. President, now the suggestion is that we go back to the days when everybody could take advantage of it. That is nice. I think everybody in the audience, everybody in the Senate, whose incomes are fairly substantial and who all have advantage currently of pension plans are saying this is nice. But what is it going to do to the country? Let us take a look.

As you can see in this chart, the Department of Commerce data shows that personal savings as a percentage of disposable income fell, as I mentioned, from 7.5 percent in 1981 when IRA's were limited to 4.4 percent in 1985 when they were expanded.

So clearly it did not do any good. This occurred despite the fact that a record $38 billion was contributed to IRA's.

Now, Mr. President, this chart shows all savings. We will get perhaps some dramatic charts showing what happened to IRA's. IRA's are just a part of savings. Individual savings accounts obviously are included in here. The charts we have will show how the IRA's shot up, and indeed they did because what a break it was. If you had your money in a savings account, it was taxable; the buildup was taxable, taxable every year. But if you had it in an IRA, no tax. So what we had was not a growth in net savings, and indeed a decline in net savings took place; we had a shift in savings and that clearly did not do the Nation any good.

So as I say, proponents of the chairman's proposal will claim that IRA's were effective at increasing personal savings because $170 billion was invested in IRA's during this period between 1982 and 1987. They are right. It was a bonanza. All that indicates, Mr. President, is that IRA marketeers were successful in pointing out the very significant tax advantages these savings accounts provided.

Of course, you can see, despite the fact there was a shift, the overall trend was downward.

Now, Mr. President, the second reason I am concerned about expanding IRA's is it results in a tremendous loss for the Federal Government. The Joint Committee on Taxation estimates that expanding existing IRA's to all taxpayers will cost $12.6 billion over the next 5 years—$12.6 billion.

I have indicated I am convinced that expanding IRA's will not encourage more people to increase their savings. Yes; it will encourage more people to put them in IRA's but the overall increase in savings will not take place in our Nation.

Mr. President, I am concerned about the effect of the revenue loss that I

just mentioned—$12.6 billion. That is a gross figure. Now, it will be pointed out that the net figure for the loss during that time is only $5.8 billion.

What is the difference? I say $12.6—$12.5. Let us make it simple. The opposition will say, oh, no, the loss is a little less than $6 billion. The difference is that because of another feature they have in here, there will be an immediate, swift, rapid payment to the Government as people shift their money out of certain accounts, pay a tax, and that will be to the benefit of the Federal Government during this 5-year period. The trouble is, Mr. President, that at the end of the 5-year period the deluge comes, and I will point that out in just a minute.

Total savings involve not only private savings, that is, what individuals do, and businesses, but public savings represented by local, State, and Federal Government surpluses or deficits. When we decrease Federal tax receipts, thereby increasing the budget deficit, we directly reduce our total savings rate.

The committee's proposal does guarantee increased savings and the tax benefits under the proposal will go to anyone who invests in an IRA even if the money comes from an existing savings account. The point is there is nothing that guarantees this will be new savings. This is just a shifting around of money.

The high cost of IRA's reflects the fact that taxpayers will take advantage of a tax favored investment. It does not take any rocket scientist, Mr. President—and the American people are very, very smart when it comes to handling their money. If they see something that is tax free, they will take their money out of something that is taxable, a savings account, and shift it.

That is why tax shelters were so prevalent. That is why we had the tax reform bill of 1986.

Many of the beneficiaries of this proposal will simply take $2,000 a year out of an existing savings account and put it in IRA's so they will get a benefit of the tax deduction. This is certainly one plausible explanation for the decrease in the savings as I mentioned previously.

All of the taxpayers—and I want to say this once again—all of the taxpayers who benefit from this position, the position suggested by the chairman, all of them currently can have a tax benefit now. True, richer ones have to use the after-tax money, the after-tax $2,000, but once it is in the account the buildup is tax free.

Now, Mr. President, that is part of the program. This splits in two, the suggestion the chairman has in this legislation—it is not a suggestion. It is in. One is this proposal that everybody—you might call it the millionaire's IRA section. Everybody can take advantage of the $2,000 deduction.

But now we go on to an even more questionable position, and this is the creation of what are called special IRA's. This IRA does the following: An individual foregoes the immediate tax deduction in favor of an even bigger benefit. All income earned under this new IRA is not only tax free while it is being built up, it is tax free when it comes out.

Here is a situation, Mr. President, Mr. President. Anybody in the Nation, no matter how rich, can put $2,000 a year aside in an account. This is after taxes. It is not a deduction. And then at the end of 5 years—I do not know why it is an IRA. In IRA, "R" stands for retirement. There is no retirement involved in this. You just wait 5 years. I think this violates the truth-in-labeling law by calling it an IRA. It has nothing to do with retirement. At the end of 5 years, you can take out all the buildup, all the money, tax free.

So let us take this case. Suppose you put in $2,000 a year for 5 years. You have $10,000 in there. And then you keep putting in $2,000 per year up to 10 years. You can take out the first $10,000 you put in plus all the appreciation. Let us say you put it in Coca Cola and it doubles. You can take that all out tax free. Who has ever heard of a bonanza like this? The thing that astonishes me, some people in this Chamber have worries about cutting the capital gains rate. This is cutting the capital gains rate to zero, no tax.

Mr. ROTH. Will the Senator yield for a question?

Mr. CHAFEE. Sure. I do not want my thought interrupted too much. I do not want a long dialog, but I will yield for a question.

Mr. ROTH. As the Senator knows, as he himself proposed a 7-year family savings plan, what this so-called new IRA does is follow through on the recommendations of the President. But my question to the Senator is this. Last year when I first introduced the back-ended IRA, I proposed that the funds could only be withdrawn without penalty at the age 59½ with certain limitations. If we withdrew this 5-year provision, would that satisfy the Honorable Senator from Rhode Island as to the viability of IRA's?

Mr. CHAFEE. Mr. President, my problem is I just do not know what the effect is on the deficit. I must say, any proposal that is totally tax free—the withdrawal of the buildup is totally tax free—gives me a lot of difficulty. So I do not know what the consequences are.

As the distinguished Senator from Delaware well knows, we are not able to get estimates from the Joint Tax Committee on revenue effects beyond the 5-year period. So on this measure—if I can call it the Roth provision, or the back-ended IRA, or the special IRA—we have not been able to get exact cost-figure estimates. All of these are estimates on what this will cost, because nothing happens during the first 5 years. The tax consequences are zero, in effect, in the first 5 years because, as I pointed out, it is not deductible. It is an after-tax $2,000 that goes in; the buildup is tax free, as it would be in any IRA.

You could do that right now. Under the law you can put $2,000 in, after-tax dollars, and the buildup is tax free. But under this provision, at the end of 5 years, you can take out all the appreciation with no tax whatsoever.

I must say, I am shocked by that, at the end of 5 years, that that can occur.

So, Mr. President, there we have it. A tremendous expansion of IRA's; the first that says anybody can use an IRA. It just obliterates what we did in the 1986 Tax Code, where we restricted IRA's to those who had either no pension plans, or fell within the $25,000 for an individual or $40,000 for a family.

Then, the other portion, which we call the back-loaded IRA's, or the special IRA's, provides that you put the money in after taxes and the buildup is tax free, and tax free when it comes out.

Mr. President, perhaps the Senator from Delaware can correct me on this. But as I understand this proposal, that there is a further provision that if your money is currently in an IRA, where you have put it in, taking the deduction, and it is built up—let us say you have $40,000 in an IRA. As I understand it, an individual can take the entire $40,000 out and pay tax on it; or, as I understand it, you do not even have to pay tax on it at all. You pay one-quarter of the tax, and you spread the tax over 4 years. And you put the $40,000, or what is left after the deduction of the first year's taxes, back into the special IRA.

So you have this. It is not just some simple thing of somebody having $2,000. And people can dismiss that: Oh, well, that is not much. How many millionaires are going to fool around with $2,000? As I understand this proposal—I am prepared to be corrected—if you have an IRA built up over the years, you can take it all out and pay the tax. And, as I understand, you only pay the tax over 4 years, and put that money back into the special IRA, where you get this tremendous buildup. I would think millionaires would think that was splendid.

What is this going to cost the Nation? The best estimate that we have been able to get from the Congressional Budget Office was that it was estimated as a long-term revenue loss on a simple proposal offered by the administration. As the distinguished Senator from Delaware has pointed out, that could be as high as $17 billion a year. That is serious money, Mr. President: $17 billion a year that this is going to cost.

Mr. President, what is taking place here? We have completely lost the ra-

tionale for the creation of these instruments. As I mentioned, they were originally designed to take care of those citizens who did not have a retirement plan.

I can remember when I was practicing law as an individual, and along came the Keogh. I thought that was wonderful, because as an individual practitioner, I could put some money aside in a Keogh, and the IRA was the same thing. But that is wrong.

Under the chairman's provision, the first part of this says you do not have to wait; no matter that you have a wonderful plan. I mean, these people who are millionaires and these big executives can all use this. They can all put $2,000 aside. I do not know why we give them this advantage because, as I have said several times, they can already put $2,000 aside. But the difference is it is after tax. This lets them deduct it and have all the buildup.

Then, we come from that with the back-loaded one, where they have a choice. So they pay taxes on it and put it in. The buildup is free. Everybody recognizes that. That is true now. But when they take it out, the appreciation, there is not one nickel of tax. I wonder if that shocks everybody here as much as it does me?

Here we are, worrying about millionaries getting away with a pretty easy situation. And this is a great giveaway program for them.

As I say, it has nothing to do with retirement, because at the end of 5 years, one can take it.

So, Mr. President, we are abandoning the Tax Reform Act of 1986; we are abandoning the thought of these accounts being for retirement; and, once again, we are creating some tax shelters. They are not shelters for the purpose of encouraging retirement. There is no requirement that anything be involved with the retirement here. The only requirement that must be met to receive the zero tax rate is that the money be held in the account for 5 years.

Mr. President, I do not know who can defend spending this $5.8 billion—that is a net figure, every year, under the first part of this; and then, the outyear program is going to cost $17 billion a year—when we are facing, this Nation is facing these horrible deficits of over $300 billion a year.

So, Mr. President, I urge my colleagues to support this amendment. I think we are treating the wealthy pretty well in this Nation right now. I do not think we have to give them any bonanzas like this.

I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. ROTH. Mr. President, America has waited a long time for this moment. I believe that the enactment of the Bentsen-Roth IRA is without question one of the most significant steps that can be taken in the interest of this Nation, and in the interest of the American family.

Almost without exception, every economist will tell you that the most important thing this country can do for its long-term future is to promote savings. It is a fact that American savings is far below that of most other Western countries, including Japan, Germany, and Canada. In the case of Canada, for many years, our savings rates paralleled each other, until Canada improved its rate of incentive for savings and the United States backed out.

When that happened, Canada began saving far in excess of what this country is currently saving. Why is that important? Savings are important because it provides us with the capital, with the funds, to invest in new plants and equipment.

The most important problem this Nation faces is becoming competitive in this emerging global competition. If we are going to be competitive in this emerging global competition, it means that our workers, our people, must have the most up-to-date, modern facilities that incorporate the latest technology.

It is a fact that Japan has spent trillions of dollars in the last few years just to ensure that their facilities are among, if not the most modern in the world. If we are going to have jobs, meaningful jobs for our young people, for our blue-collar workers, for all Americans, it is critically important that we have the most modern facilities in the world. And that cannot be accomplished unless this country begins to save more.

I was interested when the Chairman of the Federal Reserve came before us, and I pressed him on the question of savings, and he said, yes, savings were critically important to our long-term growth. And he also agreed that IRA's were worth trying as a means of improving savings. So that is point No. 1.

IRA's are good for the Nation, because it promotes savings, and savings help make us competitive. But it is also good for the family. It is important to understand that the typical American by the end of this century will live in retirement as long as he or she will live in his or her working years. So it is important that we provide incentives that enable the typical American to begin saving for that long period of retirement.

The fact is, this is not a program for the millionaire, as my distinguished colleague from Rhode Island claimed. It is a proposal to promote savings for all Americans. The fact is that a single person loses his IRA, or it is phased out at $25,000. In the case of a married couple, the IRA is currently phased out at $40,000. Are we saying that a single person who makes $30,000 is a millionaire, or is rich? I do not think so. But what we are trying to do with the Bentsen-Roth IRA is to provide the incentive for people to begin savings.

Why was this put in this 5-year proposal? Well, as I said, it was in recognition that the President contained that proposal in his budget statement. And the reason the President proposed it is that it was felt that it would encourage the young people to save. The one group that tends to save the least is the younger generation. Many people felt that if you require them to retain the funds until age 59½, there was not sufficient incentive to get them to save. That was the reason the 5-year proposal was included in this legislation.

As I said, as far as I am concerned, if the distinguished Senator would support the legislation, I would be personally happy to withdraw it. But it does serve a certain purpose.

Mr. President, the fact shows that in 1986 when the IRA was modified and made not available to many Americans, there was a drop in IRA contributions of $24 billion, or 67 percent. A third of the decline, or $8 billion, came from taxpayers with incomes below $15,000 a year. We are not talking about wealthy people, rich people; we are talking about middle America, and we are trying to help every American family to prepare for the future.

The claim has been made that what happened in the IRA was that savers just shuffled funds from other savings. Again, careful studies have been made and just the opposite has been shown.

No. 1, the typical American family has roughly $1,000 to $6,000 in liquid assets. So the typical American family does not have many funds to shift over the IRA's. As a matter of fact, several careful studies made by economists who initially were of the other school, who believed that IRA's did not result in new savings, came to the opposite conclusion after making a careful examination of the facts.

The fact is that Americans were not shifting from there savings. Not only were they not shifting from other savings, but the fact is that, at the same time they were putting new funds into IRA's, they were continuing and, in many cases, even increasing their contributions to other types of savings.

So the facts do not bear out the charge that IRA's have not resulted in new savings. Persons, as I say, who contribute to an IRA or a Keogh do not appear to have reduced their assets any more than persons who did not have an IRA or Keogh. IRA's were also found not to have been financed by borrowing.

Mr. President, I think it is important to understand that two-thirds of the beneficiaries of IRA deductions were middle or lower income. Of the more than 15 million tax returns with IRA contributions, over 10.5 million, or 66.9 percent, were of families or individuals

with adjusted gross incomes of less than $50,000. These returns showed that 58 percent of the total dollars were contributed to IRA's.

Both the number of contributors to IRA's and the level of contributors increased substantially after eligibility was expanded in 1982, and they fell sharply after that eligibility was limited in 1987.

Mr. President, I think it is important to recognize again that the creation of an IRA for all Americans is indeed a very, very important step for the future welfare and growth of this Nation. It is important equally for the welfare of the typical American family. Americans, as I said, are living longer and longer. They are not currently able to meet their needs.

I do not think there are many that would argue that. The IRA does provide a new approach that is both good for the family and good for the Nation.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all I commend our colleague from Delaware for his statement and the Senator from Texas for including this provision in this tax bill.

In 1986, I offered the amendment to retain preexisting treatment of IRA's and I lost that vote in this Chamber by a margin of three votes. I remember very well that that debate went on for a number of hours. The central question was whether or not the IRA's were worthwhile.

The Senator from Delaware is absolutely correct that the major argument raised during that debate was the contention that IRA's do not generate any new savings, but draw savings away from other important financial investments in the country.

Mr. President, we did not have the advantage during that debate in 1986 of an important study conducted by Merrill Lynch. That study found that IRA's, so long as all were allowed the full deduction, generated totally new savings in this country, on the order of some $137.8 billion. The study also found that IRA's did no damage whatsoever to other types of savings that were occurring simultaneously in this country.

One point needs to be made and emphasized here. We can have study after study. Lord knows, if you want to find an economist to support your particular point of view, it is not terribly difficult to do. But I think most people in this country agree that one of the most troubling economic problems we have is our very low savings rate. The United States regretfully has one of the lowest personal savings rates of any of the industrialized nations in the world. It is a third of that of Germany and a quarter of that of Japan.

The low savings rate means that too much of our budget deficit is financed by foreign dollars—dollars that investors can choose to withdraw, of course, almost at will. It also means that funds needed to invest in new businesses, and expand existing businesses are too costly. It means that too many people have insufficient savings to meet an emergency and plan for their children's education.

Mr. President, this is a problem that we can and must do something about, and this legislation does it. Ironically, the one proven vehicle for increasing savings, individual retirement accounts, was hobbled, as I mentioned earlier, by the Tax Reform Act of 1986. As I noted earlier, a study sponsored by Merrill Lynch titled "Save, America" estimated that between 1982 and 1986, $137.8 billion in new savings were generated by the IRA's.

Mr. President, we all understand the importance of savings to capital formation, a major concern in this country to assure our future standards of living and global competitiveness. As the "Save, America" study done by Merrill Lynch clearly states: "Savings invested in productive assets increases the capital stock, which in turn results in greater amounts of output and income."

Not surprisingly, as a Fortune magazine article entitled "How Capital Costs Cripple America" points out, "Like all prices, the price of capital is a matter of supply and demand, with the puny supply of U.S. savings guaranteeing that the price will be high." How high? A 1986 study of capital costs by economists B. Douglas Bernheim of Northwestern and John B. Shoven of Stanford reveals that throughout the 1980's the United States has borne the highest cost of capital of the leading industrialized nations, nearly twice that of Japan.

Capital formation is particularly important at a time when we still have not tamed the budget deficit. Despite the promises of supply side economics, our savings rate continues to decline, from 8.7 percent of GNP between 1971 and 1975, to 6.2 percent between 1981 and 1985, to 4 percent between 1985 and 1988. The "Save, America" study points out the importance of this decline by noting "a 2.5-percent increase in the personal savings rate could add roughly 10 percentage points to the GNP or $500 billion in terms of today's economy."

Let me address some of the questions our distinguished friend from Rhode Island raised about the IRA's and our experience with it. The first question raised was, "Wasn't the IRA tax deduction in effect during the decline in saving during the 1980's?" The answer is: Yes, it was. But as Michael Boskin wrote in "A Closer Look at Recent U.S. Saving", "There is a substantial reason to believe that the saving rate would still be lower had universal IRA accounts not been instituted." His conclusion is supported by several other recent studies, including one by David Venti and Steven Wise, "The Evidence on IRA's," published in January, 3 years ago. That study concluded that "IRA's have had a substantial positive net effect on personal savings." The authors of that study found that 80 percent of IRA contributions were new savings; with more than one-half of each marginal IRA dollar coming from reduced consumption and another 20 to 30 percent from reduced taxes.

A second question often raised is, "Aren't IRA's a rich person's gimmick?" This is one we hear quite often. Obviously wealthy people potentially have more money to save; however, the data show that IRA's were used predominantly by moderate- and middle-income people. IRS statistics show that for 1986, fully two-thirds of all taxpayers claiming an IRA deduction were families with incomes under $50,000 a year. Moreover, those returns accounted for almost 60 percent of the payments to IRA's.

The changing demographics of our society also create an imperative for increased private retirement savings. Obviously as people live longer, they will need more resources. In addition, many baby boomers will be unable to accrue significant benefits under private retirement plans because today's increased job mobility will result in them not staying in pension plans long enough for their benefits to vest.

However, many people cannot afford to tie up their money until they retire. They have other more immediate concerns: The potential devastation of a serious illness; a job loss; or a need to put money aside for children's college education. Therefore, this IRA proposal, recognizing the difficulty of buying a home, recognizing the high cost of higher education, and recognizing the financial burdens of a devastating medical crisis that can occur, allows for penalty-free early withdrawal of these funds.

Let me point out as well, and I think we have discovered this just back and talking with our constituencies, that IRA's are tax driven. Go and talk to most middle-income people in our respective States and what you will find is most people take out IRA's between January 1 and May 15, as they calculate their taxes for the previous year. Most average income earners in this country do not have the advantages of passive losses, depreciation, rental properties, and a lot of other things. The IRA was a tax break that was attractive to these hard working middle-income people. It allowed them to lower their tax obligations and put resources that would otherwise have been expended into their personal savings accounts.

Mr. President, one can point out in any piece of legislation improvements he or she might make or to narrow them somewhat. But on the whole, I

think the evidence from when the tax treatment of IRA's was more favorable is pretty strong that they were worthwhile.

Last, let me point out that consumer debt continues to rise. More and more people are in bankruptcy. A lot of this is due to the recession but, nonetheless, for whatever the reason, there are an awful lot of people engaging in consumer buying with plastic and incurring considerable debt.

We need to change those trend lines. We need to encourage more savings and less consumer debt, and to encourage more economic stability and empowerment for people. I am not going to suggest that the IRA proposal in this bill is the total panacea for all of that, but clearly anything that we can do to encourage savings is in our interest.

We need to establish the fact that Americans are not genetically incapable of saving. They were certainly not incapable when IRA's were in place. To strike the IRA provisions entirely from the legislation would do great damage to a very worthwhile proposal, one that will go a long way in pushing this country toward economic recovery.

With all due respect to my good friend from Rhode Island, for whom I have the highest regard, I think the chairman of the committee has done an excellent job with this proposal. It deserves broad-based support, and I hope that any amendments to erode this particular IRA provision or to strike it would be defeated.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, while the distinguished Senator from Connecticut is still on the floor, I wonder if he would be good enough to answer a couple of questions that I might have.

I would like to ask the Senator from Connecticut if he is conscious of the second portion of this IRA proposal, the so-called back loaded provision, if you would.

Is he aware it is not the normal IRA that you are familiar with, where you can contribute and thus take a deduction? The so-called back-loaded provision, in the best estimates that we can get, will cost $17 billion of lost revenue a year.

Let me just describe it, and perhaps the Senator is familiar with it. The so-called back-loaded provision permits anyone, regardless of income, to put into an IRA after taxes, $2,000 per year. The buildup is tax free. And when one comes to take the money out, which can be as early as 5 years, the total proceeds are tax free, not just the contribution you originally made but the total appreciation, dividends, interest, whatever it might be.

Is the Senator familiar with that provision?

Mr. DODD. I am familiar with that. As I mentioned earlier there are some elements that one might have written differently. For example, the 5-year period is a legitimate point to raise.

But it seems to me that on the whole, encouraging people to put dollars aside with the limitations that are included in this legislation helps create the kind of capital that I think is in our interest as a Nation to encourage.

Now, my colleague from Rhode Island talks about the net loss to the Treasury as a result of back loading—and I am not going to argue with my colleague about that number—about the $17 billion. But I would say that the net benefit of encouraging savings seems to me to outweigh the economic loss even if the Senator from Rhode Island is correct.

Mr. CHAFEE. Mr. President, I would say this. Every economist that comes before the Finance Committee, as the Presiding Officer knows so well, says that the single, greatest deterrent to investment, to the cost of capital in the United States of America, is the deficits, the Federal deficits. And so when we do something that results in a substantial increase in those deficits, we are harming the very area that the distinguished Senator from Connecticut expressed concern over; namely, lack of investment in our Nation and the cost of capital.

The cost of capital is driven, I think there is no argument against this, the cost of capital in the United States is driven by these horrible deficits, and the U.S. Government being out there competing for whatever money that can be borrowed, thus driving up the interest rates and driving up the cost of capital.

Mr. DODD. If my colleague will yield on that point, I think all of us would agree that the mounting deficit is a serious problem and has to be addressed.

But it is not the only problem that we face in this country. I think you will also find that most economists, when they recite the litany of what things we ought to be doing, will add that the savings rate is something that has to be improved in this country to achieve economic stability and long-term economic growth.

So I do not disagree with him about the deficit issue, but it is not the only problem we face. Savings rates also need to improved.

I would point out—and I am sure my colleague is aware of this—but the average IRA of a person with an income of $20,000 was, as I recall, around $1,800 which is a pretty substantial IRA for someone in that income level. If we can encourage people at that income level to save, that is in the interest of this country. That is an individual and a family that is contributing to their long-term economic stability. And that is very much in the interest of this country.

Mr. CHAFEE. Mr. President, I notice others wish to speak. I would merely point out to the Senator from Connecticut—and I am sure he is conscious of this—that already we have tremendous incentives for individuals to invest in IRA's. The buildup is tax free.

If you are in the income bracket the Senator from Connecticut was talking about, there is a deduction available. After all, that is pretty nice, plus we have these added features that I have not changed in my amendment which would permit individuals to withdraw from an IRA—IRA standing for retirement. But we have done away with that under the proposal, so an individual can withdraw for education, health expenses, first-time home buying and so forth.

I thank the Chair.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from New Jersey.

Mr. BRADLEY. Madam President, I rise in support of the amendment offered by the distinguished Senator from Rhode Island. I think it is an important debate that we have to have, and I think it will be increasingly important as this bill matures toward passage in September and as we think about the budget deficit in the next Congress.

First, let me begin by stating what is probably obvious to most people in this body, and that is there are about 114 million taxpayers in America, and that number of Federal taxpayers far exceeds the number of voters in any Presidential election.

The fact of the matter is that the tax system reaches out and touches many millions more than ever choose to exercise their right to vote and, therefore, it is clearly one of the elements of our democracy that affects more people than any other.

The next question is, who are the taxpayers?

So often we have a debate in the Senate about a provision that affects a very small number of taxpayers. And often that number is at the upper-income level. We spend a great deal of time debating provisions that affect a percent, 2 percent, a half of 1 percent of the taxpayers and not a whole lot of time talking about the issues that affect all 114 million taxpayers.

So, for the benefit of the Senate, let us make a quick review of who pays taxes in this country and what their incomes are: 30 percent of all taxpayers earn under $10,000 in America—30 percent earn under $10,000. About 43 percent of all taxpayers earn between $10,000 and $40,000. So fully 73 percent of all taxpayers in America earn under $40,000.

About 9 percent are in between $40,000 and $50,000, about 13 percent between $50,000 and $70,000, and about 5 percent above $75,000. The number of Americans who earn over $100,000 is 2 percent—2 percent—of all Americans. And the number of taxpayers who earn

over $200,000 is about seven-tenths of 1 percent.

So in taking a quick snapshot of who the taxpayers are, we see that the overwhelming majority of the taxpayers are people earning under $40,000, under $50,000. And yet our discussions so often affect issues that will benefit primarily people who earn more than $50,000 or $75,000, or $200,000. And I believe that these numbers have to be kept in mind as we consider the amendment that is before us now.

I know it is popular to walk in a room and tell people you are going to give them back their IRA's. The fact of the matter is that most people in America now have fully deductible IRA's.

Under the Tax Reform Act of 1986, anyone who earns under $40,000 on a joint return has a fully deductible IRA. That means that if you can afford $2,000 out of your $35,000 salary, given your four kids and health costs and the cost of keeping everybody afloat, if you can afford $2,000, if you have not spent it just to keep things going, you can put it in an IRA account and fully deduct the $2,000. Then it can accrue interest over the lifetime of the account. And at the end, you take it out and pay your tax.

The fact of the matter is that 73 percent of all Americans are now in a position where they can do that. So when individuals come up on the floor and talk about that person who earns $20,000 and needs an IRA—they have an IRA. If people come out and talk about that young family that makes $35,000 and they need to have an IRA so they can save for the future—they have an IRA. They are not denied an IRA in current law. It exists.

In 1986 we phased out the IRA deduction for joint filers between $40,000 and $50,000. But anyone earning under $50,000 has access to either a fully deductible or partially deductible IRA. That is 82 percent of America; 82 percent of all taxpayers have access to a fully deductible or partially deductible IRA.

So when I hear the distinguished Senator from Connecticut come out and talk in opposition to this amendment, mentioning that two-thirds of the IRA's in 1986 came from people who earned under $50,000, I see that not as an argument for this amendment. That is an argument for the bill we passed in 1986. Because all of those people have a partially or fully deductible IRA.

So it is very important that we keep in mind who will benefit from the IRA expansion that is embodied in the text of this bill. The people who will benefit are the top 18 percent earners in America; 73 percent will not benefit at all. They already have it. But it is the top 18 percent who benefit the most; those people who make more than $50,000.

Some of them are people that I know—the distinguished Senator from Oregon is on the floor. I see him nodding his head. We all know these individuals. Many times they are two-earner families. Many times they are struggling. But the reality is that 82 percent of the people are now fully covered or partially covered. And this portion of the bill addresses only 18 percent of the people.

By the way, those 18 percent now have the benefit, if they choose to take out an IRA—they have the complete benefit of a tax-free buildup. In other words if I am making $60,000 or $70,000 a year, I can take my $2,000 and put it in an IRA account and next year put another $2,000 in. It is after-tax. But every year the interest on the $2,000, $4,000, $10,000, $15,000, $20,000, is not taxed. Under current law you are allowed to have a tax-free buildup. This amendment does not add anything to that.

In addition, what the distinguished Senator from Rhode Island has allowed is, for certain pressing needs, to be able to withdrew funds from your IRA account. I think that is an important addition.

The real question here is whether we want to spend about $5 billion, roughly, to give the top 18 percent in this country a fully deductible IRA. I personally think that is not the way to go.

Then you look at the other provisions and aspects of this IRA and I think it conclusively is not the way to go. Because what we have here is not just the IRA that existed before 1986, but we have what is called a back-loaded IRA, which means if I want to, in 1993, I can take $2,000—I have already paid my taxes so I am not getting any deduction here—I can take my $2,000 and put it in an IRA account and keep it there forever. Interest will grow, interest will grow, interest will grow. And in 5, 10 or 15 years, when I take it out, I do not pay any tax on that at all. I do not pay any tax on the interest buildup.

It sounds good except if you are trying to keep the deficit down, because if you are trying to keep the deficit down, what this means is, lying out there in our future is an enormous increase in the deficit. The more back-loaded IRA's are used, the bigger the increase in the deficit will be.

Then there is another provision here that allows us to raise money. It says if you are an American out there today who has an IRA, and say you have $10,000, $15,000, $20,000 in the IRA account now—that has built up over time—you could immediately roll it over. You could take it out, pay your tax, and put it immediately in a back-loaded IRA. It gives you a big chunk of money early. But of course, waiting down the road is the big loss that comes from the back-loaded IRA.

So, Madam President, I think we have to face the central question, which is what are we going to do about our deficit. This provision I think, the provision in the bill that deals with IRA's, is a deficit explosion in our future. It is a deficit explosion in our future. And not too distant future.

We have had the distinguished Joint Tax Committee come to us and say, no, our view of this is that in the long run it will not increase the deficit. Of course, that is correct. It is a very technical explanation. What I would like to do is to show some of the folly of the 1990 Budget Act by explaining why, technically, we do not have an increase in the deficit in the out years with this provision.

Under the 1990 Budget Act, if Congress enacted a provision that raised revenue but expired beyond 5 years, when that provision expired it would not increase the deficit according to the Revenue Act—the Budget Act of 1990. The baseline for revenues would simply be dropped. Even though obviously the deficit would dramatically increase.

Let me illustrate this by an absurd hypothetical. But it is relevant to this bill and relevant to our calculations as to whether IRA loses money in the long run.

Let us assume that we passed a law that says the entire income tax will expire in 6 years, We all know if the entire income tax expired in 6 years we would have $500 billion less.

Oh, no, no, not according to the Budget Act of 1990. If we decided we were going to renew it, not let it expire, but continue it, say in year 3, we would be credited with raising $500 billion. It is an absurdity upon an absurdity. Yet that is the rule we are operating under now. So here we have an IRA provision that has a deficit explosion out there waiting in our future and the argument is, no, no, it does not increase the deficit.

Why does it not increase the deficit? Because there are a couple of tax provisions that will expire in 1995 and 1996 that we extend. It is an absurd position. But that is an absurd position that is not caused by the distinguished chairman of this committee nor caused by the Joint Tax Committee but is caused by the Senate and the Congress as a whole when we passed the 1990 Budget Act that had this provision in it.

So, Madam President, the issue is whether we should expand the IRA, make it a back-loaded IRA, allow you to roll over, put a deficit explosion in our future, give the bulk of the benefits to the top 5 percent—all of the benefits to the top 18 percent of the taxpayers in this country

I think the answer to that is clearly no. The distinguished Senator from Rhode Island, I thought, made a very compelling case that if we really are interested in getting things moving in this country, we have to get the deficit down. That is the No. 1 problem. You

do not pass bills that increase the deficit.

I heard the distinguished Senator from Connecticut saying that a study showed that between 1982 and 1986, there were $137 billion more in savings as a result of the IRA. It is about, as I calculate it, $34 billion a year.

So let me propose the startling idea that maybe if we reduce the deficit by that amount or more, we would have more money available for people to go to the bank and borrow. Instead of them loaning money to the U.S. Government to finance our deficit, it would instead be in banks and institutions around this country, available for people to buy homes and buy cars and finance consumer purchases, and everything else. But we cannot do that as long as over $200 billion a year is paid in interest on a national debt that continues to go up.

And if you believe that providing this sliver of incentive for the top 18 percent of the population is going to produce an explosion of savings that will offset an increasing budget deficit and the need to finance that deficit, then I have a bridge in Brooklyn that I would like to sell you.

The fact of the matter is that we have to get serious in this body about what we want to do with taxpayer dollars. We have a $333 billion budget deficit. What do we want to do with taxpayer dollars? Do we want to continue to have Federal spending benefits—spending benefits; not the Tax Code, but Federal spending benefits—do we want to continue to have the average Federal spending benefit to people earning $100,000 in income, be $5,690? Do we want to continue to have the average Federal spending benefit for people making under $10,000 be $5,560? It seems to me that is at least a debate we ought to have.

Do we want to continue to have $400 billion of the entire budget go to people who are over 62, and $20 to $30 billion go to children under 5? We ought to discuss that.

We ought to have a debate about whether we want public expenditures to be based on need. Do we want public expenditures to be based, a little more balanced, on generational grounds? And then, the final debate is, do we want to take taxpayer dollars and shove it into the pockets of various businesses, industries, companies, and interests who are always lined up outside the Finance Committee?

Do we want to take that wage earner, who is making $25,000, and take that amount of tax they pay and give it to companies to buy equipment? Do we want to take that money and give it to financial institutions, or give it to energy industries, or whatever? That is a debate we ought to have, because we cannot continue along the path that we are now headed. It will not work; $400 billion budget deficits to the horizon is a recipe for disaster.

Here we have a limited amount of money, about $5 billion. Would you rather spend that money by giving it to people in the top 18 percent of the population, so they do not have to pay the tax, or is it conceivable that it would be better spent by reducing the deficit by that amount? Or conceivably spent better to help people who are lower income, or people who are young children?

Those are debates that I think we ought to have, that of course we will not have if we are focused only on the narrow question—and a question that I think is not backed up by evidence—that passing this IRA provision in the bill will dramatically increase savings.

So, Madam President, I hope we will support the amendment of the distinguished Senator from Rhode Island.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, the chairman of the Finance Committee.

Mr. BENTSEN. Madam President, let us look at some of these numbers my friends are talking about. When they talk about 82 percent or 74 percent being eligible for the IRA's, what they are talking about is everybody, all taxpayers. They are talking about all those millions of college students, part-time employees, and unemployed drawing unemployment compensation. Everyone. What we are talking about is families. That is where the difference in the numbers is.

If you are talking about two-income families, 60 percent of them now do not qualify for the IRA. They tell me that by next year, almost 50 percent of all families will not qualify for the IRA.

What kind of people are we talking about? Wealthy people, millionaires, I was told. What they do not tell you is if you are wealthy, you are maxed out on the 401(k); about $8,700 this year, and you cannot use the IRA under our bill. You do not get the deduction for the IRA. Those are the realities of the situation.

Some ask whether you get a net increase in savings. That is a legitimate debate. Economists used to say—the vast majority of them—it is just a shift in savings, not an increase in savings. But then in 1986 we neutered the IRA. The year before that change took effect, we saw $38 billion going into IRA's; and the next year, we saw $14 billion; and now we see $11 billion.

Let's look at the national savings rate. Look at the national savings rate as a percentage of GNP and how it continues to go down. If we are going to continue to have the capital we need to increase productivity, to be internationally competitive, to keep the jobs at home, we have to increase capital available for investment. That means long-term savings.

We have had before the Finance Committee, experts talking about whether or not there is an increase in savings from the IRA. Let me give you some of them. Studies by economists in places like Harvard, Dartmouth, and the University of Virginia, economists who looked at the IRA and found it to be effective: Lawrence Summers of the World Bank; Robert Reich of Harvard; Federal Chairman Alan Greenspan; and Martin Feldstein; economists from the right and the left, Democrats and Republicans.

One of the things you saw when you looked at IRA's is what was gained in advertising because the IRA was universally available. Once we neutered the IRA, we had a 40-percent drop in IRA participation by people who still qualified, because they did not understand it and did not see the ads.

But when you have universal IRA's, all the financial institutions run full-page ads the week before April 15. It is drummed into you to save. Sure, there is a carrot there; sure, there is an incentive there. That is what other countries do in trying to encourage their people to save.

Today, savings in this country is one-third that of the Japanese, per capita; and one-half of the Germans. And those are our principal competitors.

This is the difference in the household savings rate as a percentage of disposable income, 1990: Japan, over 14 percent; Germany, over 12 percent; United States, just above 4 percent.

Let's also look at what happened to the percentage of decline in IRA contributions after the 1986 act. Was it the wealthy who suffered from the IRA cutbacks of 1986?

No; it was not the wealthy. The ones who were hit the hardest had incomes between $50,000 and $75,000. Not poor, but they sure don't think they are rich. Look at the folks with income between $30,000 and $50,000, many of those probably still were qualified but they no longer understood it. They no longer saw full-page ads. They stopped contributing and even those with income from zero to $30,000 saw contributions drop by over 40 percent.

The drop in the contributions to IRA's since 1986 has been staggering. That is why it is important to restore the IRA, to bring it out of retirement. It's only available to working Americans. Those are the only ones who can qualify, the kind of people you see in the grocery store every day: a schoolteacher and a carpenter with three children with combined income perhaps of $45,000, the single mother with two kids who works in an office and earns $30,000.

Those who say the new IRA only helps the wealthy, ought to ask Paula Baker, of Dover, DE, if she thinks she is wealthy. She told the Finance Committee that her job at her child's day care center, combined with her husband's pay from the U.S. Air Force makes her now ineligible for an IRA.

Ask Barbara Green of Boston, a secretary, and her husband Larry, an elec-

trician, trying to save for a home to raise their two sons, if they are rich.

Ask Vaughn Hobson of Raleigh, NC, working now that her children are grown. She learned that her income as the manager of a small office, when added to her husband's income, caused them to be ineligible for an IRA. I know she doesn't consider herself well off, she's having a tough time saving for retirement that seems to be just around the corner. She wants to save, but does not qualify for the IRA. She does not think it is fair that she can't use the IRA.

We also put in penalty-free withdrawals to achieve some of the objectives most cherished by families today. To be able to buy that first home. Too many young couples are finding out they can't get enough for the downpayment. They have to live with mom and dad, when they'd really rather be out on their own. And mom and dad thinking that is a pretty good idea, too.

Try to send your kids to college nowadays. See what it costs today. What does it cost to go to Princeton, the Senator from New Jersey's alma mater? I can remember when my son went there and it costs a bundle. The same is true for any other college, even State-owned colleges. So what we are saying is, we are going to give you an incentive, we are going to give you a carrot to save for the future. For the education of your children.

This is a tough, competitive world we are facing, and you want that education for your kids. You hope they can live as well as you have. But they are not going to do it if they do not have an equivalent education.

Or you are talking about having an unexpected catastrophic illness or unemployment that could wipe out your savings or cause you to lose your home. Once again, we talk about a penalty-free withdrawal to be able to help in that circumstance.

And, of course, the IRA is there for your retirement, as my friend from Delaware was talking about. Today, with improved health care, with technological advances, the number of years people can expect to live after they have retired is much longer. One of the worst things that can happen, is to outlive your money. The IRA will help on that by encouraging Americans to save for their future. That has been an American tradition. Let us bring it back. Let us help people to do it.

Madam President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I have listened with interest to my friend and colleague from Texas, the chairman of the committee, about the fact that some witnesses said they could not—at $40,000—participate in an IRA. I do not think there would be any real discussion on the floor today if somebody had proposed there be some cost-of-living adjustment to the present law. That is not what we are discussing.

We are talking about changing the law all the way over to the point that the wealthiest people in the country can accumulate their money in an IRA without paying any taxes on the interest or the investments they make with that money, without paying any taxes on the money when it is distributed. That goes too far. That goes much further than we ought to be going.

Frankly, I am pleased the Senator from Rhode Island has offered this amendment because my concern about this bill is not alone with the specifics of this provision; it is with the overall provisions of the bill. This is a bill that does not do for America that which we should be doing. It does not address itself to the question of jobs for all Americans. It does not address itself to the problems of the agricultural community. It does not address itself to the problems of the economy. It hits some specific tax issues and helps the wealthy of this country, but does very little for other than those.

Now, there are enterprise zone provisions in the bill, and I am not sure whether they are great or not so great. But I do not take issue with that. I respect the chairman of the committee and those who think these are an appropriate way of solving the problems of the inner cities. I am comfortable with that. As a matter of fact, with some other areas there is much to commend. I recognize this bill as being a bipartisan effort on the part of the committee to address the chronic economic decay in our cities that was violently revealed earlier this year in Los Angeles. The bill also contains a number of sound tax and economic proposals that enjoy widespread support.

But in many ways I am frank to say I am more pleased about what is not in the bill than what is in it. I am grateful that the committee has sent us a bill without a section on capital gains tax cuts. I am also grateful that the chairman has reported a tax bill that departs markedly from a disturbing historical pattern. In the past, tax bills would be loaded with single-shot provisions for individual taxpayers or individual corporations, or with transition rules which carved out a particular interest for special benefit. I find none of those in this bill, and I commend the chairman for seeing to it they are not in the bill.

While there are a number of provisions that do benefit a small portion of the taxpaying community, it is nothing like the Christmas trees of years gone by, and for that I am most pleased.

However, in my opinion, there are a good many additional provisions that ought to be missing from this bill but are not. Born from the rubble in south central Los Angeles, this legislation began as a bipartisan effort to address the decay in our inner cities. I hoped that it would have confined itself to that issue. Regrettably, it has become a bipartisan tax break behemoth that benefits the big businesses that brought us much of the ruin of the 1980's.

I do not find fault with the motives of the members of the Finance Committee who put together this package. I know that they genuinely believe that the tax provisions contained in this legislation will stimulate our stagnant economy. I simply do not share that view. I have great difficulty with the entire package by reason of the fact.

I am supportive of the urban aid provisions as far as they go. You can argue for or against the creation of enterprise zones, one could argue for 25, or 50, or 125 enterprise zones, or even 1 in every congressional district, as Secretary Kemp seems to advocate. Whatever your position, at least this is something that is something new. We are employing a new approach. We are changing the status quo, and that is for the good. But the fact is that up until this morning when the bill was changed there was only $2.5 billion in this bill for the enterprise zones and about $31 billion in tax breaks for the wealthy of this country and the largest corporations of this country.

Since that time the bill has been amended. I believe now that the enterprise zone provision provides for $5.4 billion, or something approximating that amount, and that is a move in the right direction. But it is the tax provisions in the bill where I find ideas that have been rejected, retreaded, and resurrected.

We have tried this kind of thing before and it did not work, and it will not work now. It is because much of this bill is nothing more than another entitlement program for corporate America. A $31 billion collection of tax breaks for business and wealthy individuals; $31 billion of tax breaks for corporations and wealthy individuals, versus $5.4 billion for enterprise zones. It builds in the theory that more money in corporate hands and less intrusion from the Government will allow our economy to grow right out of our recession. I cannot buy that concept.

This bill contains much of the same voodoo economics that George Bush learned to love. You remember the story: cut the taxes on corporations, and the wealthy, and the captains of industry will set sail, investing in our Nation, expanding in their manufacturing facilities, creating new jobs, and rebuilding our economy. That was a fairy tale, Madam President. It did not work before, and it will not work now.

All that actually resulted from those voodoo economics of the past, among

other things, was a massive Federal budget deficit, takeover fever, leveraged buyouts, paper profits, the savings and loan disaster, bankrupt banks, record unemployment, and the worst recession since the Great Depression. It seems to me that in a year in which the political clarion call is for change we should either try something different or try nothing at all. More of the same will simply dig us deeper into this national rut and it will make it harder to climb out next year.

I cannot see how this bill will help the families who are trapped without jobs, or education, in America's cities. I cannot see how it will benefit the middle-class families who, while not living in the inner city, are rapidly losing ground due to layoffs and the increase in low-wage jobs. This bill will not help our declining educational system and skyrocketing health care costs.

This bill fails to take the steps that are needed. But that is not really the fault of its proponents. We have been handcuffed by a veto-mad administration. The proponents of this legislation are doing what they think is right but more importantly, they are doing all they think they can realistically do with a do-nothing White House.

For the past 4 years our President has refused to support legislation to get this country moving. He has refused to try something new. He has resisted change. He has sent us 31 vetoes, all of which have been sustained by the Members on the other side of this aisle.

Now the President is sending signals that he may actually sign this bill. That does not surprise me because this bill contains more of the same failed policies that have dragged this country down.

This bill is not about change, and George Bush is not about change. The President has made it quite clear that he will not support the type of aid that cities really need: Increased funding for education, job training, and public works projects to rebuild our cities and create jobs.

If we can find $31 billion in this bill to take care of the wealthy and the corporate structure in America just think what that $31 billion would do for education, for job training, for public works, to rebuild our cities, to create new jobs. The cities need money to provide better education to children. The cities need job training programs for teenagers and adults who do not have the skills to enter the job market. The cities need to rebuild the houses and buildings that have been torn down or fallen apart. The cities need to rebuild their roads, and bridges, and public transportation systems. That is what the cities need.

Unfortunately in its attempt to do something for the cities that President Bush will support we now have a bill that aids the very same sector that let us down in the eighties, big businesses and investors.

We give them wage credits, depreciation deductions, tax losses, breaks for stock purchases, tax-exempt bonds. Somehow we hope that something will trickle down to the inner cities and to the jobless of America. It is as if we have learned nothing from the failed policies of the past 12 years. Trickle-down economics does not work.

Under Reagan-Bush we have given tax break after tax break to the rich in the hope that somehow it would spur the economy and help working people. But none of that has happened. Instead the rich got richer and the poor and the middle class paid the bill, and in the process we bankrupted America.

The modified bill contains $5.5 billion to directly encourage businesses to invest in impoverished areas. It contains another $31 billion in tax breaks for corporate America. Again, I repeat, $31 billion in giveaways to the rich and corporate America.

America is in the middle of the worst recession since the Great Depression. History will probably label it the Great Recession. Unemployment is at record levels with almost 10 million Americans out of work. The economy is not recovering. We are risking the future of our children and grandchildren with a Federal deficit that is out of control. How do we here in the Senate respond? With $31 billion in tax breaks for corporations and the well-to-do.

I ask my colleagues, look through this bill. Look at who benefits from this bill. This bill is 1,811 pages. Look through it and see who gets the benefits.

First we have restoration of the so-called passive loss deduction for real estate investors. We battled that one a number of times here in the U.S. Senate. We finally won the issue, and now it is back in our lap once again.

Does the average taxpayer have access to passive loss deductions from rental property? Does the average taxpayer know what a passive loss is?

You may not know what a passive loss is, but it is going to cost the American people something like $1.5 billion, or $1.8 billion. If a family owns a duplex and cannot find another family to share it, can they qualify for a tax deduction? Of course not. So who is benefiting here? Individuals in the real estate industry, developers who overspeculated in property in office buildings and shopping malls in the 1980's. Those properties are now standing vacant and these developers want to take the 100 percent deduction against their real estate income for space that is going unrented.

Congress fought to get rid of this provision in 1986. It is back 6 years later, and at a cost to the taxpayers. I was wrong in my original figure. It is $2.2 billion. And it will allow many of the eighties' highest real estate rollers to pay no income tax at all.

There also is a provision accelerating the depreciation method for the adjusted earnings of corporations. That is a big mouthful, and most people do not understand what that means. This section gives businesses faster depreciation write-offs against their minimum tax. That comes straight from the President's proposed budget, and its effect is simple. It slashes the amount of minimum tax a profitable corporation has to pay, and at a cost of $1.4 billion to all the taxpayers of this country.

Then we have restoration of individual retirements accounts for upper-income taxpayers, and creation of a new IRA. I commend the Senator from Rhode Island for offering the amendment to strike that provision. I have joined with him as a cosponsor of this amendment. I think he is right on target. Since individuals earning under $25,000 and couples earning under $40,000 are allowed to have IRA's under current law, this provision would only benefit the top 20 percent taxpayers.

I admit that $25,000 and $40,000 limits need to be indexed for inflation. Completely eliminating the income limits will result in a new tax break for those who need it the least.

Under this bill, we go from a maximum of $25,000 for the individual, $40,000 for the couple, and take the top off entirely. We let those people who have the extra dollars invest them, let them accrue, without any tax being paid on them, and let them be then distributed to those same individuals in a later year without any tax being paid.

There is a suggestion that somehow the IRA's are going to help the economy, provide the dollars to stimulate the economy. I believe that those dollars in the hands of the average person would provide better buying power in the economy, rather than being socked away. Socking away is not going to solve the problem for this country.

I do not oppose the whole concept of IRA's. I do oppose the concept of taking off the cap. I believe that the amendment of the Senator from Rhode Island should be adopted.

In addition to that part of the IRA provision, this bill creates a new IRA, in which the principal is subject to tax, but all interest is tax free. Someone who puts in $2,000 a year for 20 years will recover $20,000 in tax-free interest.

According to the Joint Tax Committee, the cost of restoring IRA's is $12.6 billion over 5 years. Some of this revenue loss is offset by permitting individuals to transfer existing IRA's to a nondeductible IRA. But look closer at the so-called offset. By allowing individuals to pay tax now on the income which they put into the IRA's, we will, in effect, lose revenue outside of the 5-year budget window. We are claiming to raise money now but, in fact, we are losing $12 billion, and we will lose even more after that, which will be in 1997.

What happens is this: In making the computations for this bill, it was as-

sumed that those with present IRA's would switch over, that they would then have some tax burden, that that tax burden would then pick up some dollars. But, then, all of the rest of the years during the 5-year period, the Treasury would be losing tax dollars, and when we went beyond the 5-year period, the limit would keep going up and up in losses of tax revenue.

We cannot afford that. We have a deficit; it is almost $400 billion a year. What are we doing about it? We are providing new tax gimmicks in this legislation.

According to the Congressional Research Service, the IRA provisions will lose $11 billion a year after 1997. The CRS says that the IRS provisions will lose $11 billion a year after 1997, until we have lost a grand total of $60 billion.

Does this Senate really want to vote into effect, into law, a provision that would cost $60 billion after 1997, including part of the money coming before 1997? The last time I looked, we did not have $60 billion to lose. And who takes that $60 billion? Ninety-five percent of it—95 percent of the tax loss to the taxpayers—will go to the top 5 percent of American wage earners.

What else is in this bill? We have repeal of the luxury tax on expensive boats, airplanes, jewelry, and fur. We only enacted that one in 1990. Two short years later, it is being repealed. Clearly, the wealthy do not like to have to pay extra for their extras. The cost to the American people: $500 million.

Supposedly, this bill is revenue neutral over the next 5 years, so how does it pay for all these tax breaks?

Well, there is a change in the depreciation period for real property. That does not mean business is going to lose anything. It just means it will take them a little bit longer to get the full deduction. We stretch the deduction an extra 9 years, from 31 to 40 years, and claim to raise $3 billion in the process.

Then there are a few provisions to speed up how fast individuals and companies have to pay their taxes. Again, this does not mean they have to pay any more, just that they have to pay it a little sooner, and it means we will be collecting less in the future to pay for something we want to have now, and our grandchildren stand to lose, and the net loss in revenue is a significant number of billions of dollars.

There also is a continuation of limits in the amount of personal itemized deductions that the wealthy may take. No one expected these limits to be phased out anyway. It was expected they would be renewed.

By continuing these provisions, it is claimed—and I do not accept the claim—that we are raising $7.8 billion. But these provisions could be used to reduce the deficit, and now they will be used to pay for the IRA provisions in this bill. That is not logical, and it is not good tax sense. Again, we are increasing the deficit at a time when we should be reducing it.

Finally, the biggest boondoggle in the bill has to do with allowing companies to take and amortize the value of what are known as intangible assets, things like good will and other gimmicks. As I understand it, some companies currently have claimed those deductions on their tax returns, even though no deduction is permitted.

This bill retroactively changes the law to let these businesses keep 75 percent of the deduction they took and makes them pay back 25 percent to the Government. We are retroactively rewarding companies that took a tax deduction that was not permitted under the law in order to pretend to raise $6 billion in 1992 and 1993. That is no raising of dollars at all. These companies owe the money. They are in Tax Court. If they do not owe it, let the cases be decided. You cannot claim we are raising any money just because we are settling those cases.

By giving another tax break to business, retroactively, do we actually raise any money? No; of course not. In the future, we will permanently let companies take these deductions, which will cost us up to $2 billion a year, and which many experts believe will lead to a revival of merger and takeover activity.

Just when we thought the wheeling and dealing of the 1980's that bankrupted much of America was over, we are about to encourage it all over again, according to the Congressional Research Service, at a long-term annual cost of $2 billion a year. Again, we are increasing the deficit and not raising offsetting revenues to pay for it after the budget period.

Madam President, I could go on and on. I hope I have made my point. I do not expect everyone to agree with it. But as strongly as the proponents believe this bill will aid our cities and our economy, I am equally convinced that the bill takes us down the wrong path. It will do too little for the cities, the economy, or the American people. It will not reduce the deficit—that rope around the necks of our children, grandchildren, and our great grandchildren.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. METZENBAUM. Yes.

Mr. BRADLEY. What is the Senator's position on the amendment before the body?

Mr. METZENBAUM. I am a cosponsor of that amendment.

Maybe, Madam President, it is true that the bill is an attempt to make the best of a bad situation. Maybe it is the best the Finance Committee can do.

The President has drawn his line in the sand. He will not listen to new ideas. He will not sign anything ambitious that we can send him. He is content to serve the status quo and no more. America needs leadership and leaders who are willing to act in the national interest of the country to change our way of thinking, to offer alternatives, to accept new ideas.

We are failing in our mission to serve the interests of the American people. I believe that if we adopt the Chafee amendment, getting rid of all of the IRA provisions, we will have made a major step in making this into a better bill than it is.

I hope that it will be adopted. I believe it should be adopted. I believe it will help, as far as balancing the budget is concerned, and I think it will be fair for all Americans.

Mr. BENTSEN. Madam President, the job of the chairman of a Finance Committee is an interesting job.

This morning I was being pilloried for being not supportive enough of business. This afternoon they are working me over because I am too supportive of business. Maybe we have done something right in this bill. We are talking about 1,800 pages in a bill, and I sympathize with that and I understand that. Let me also say that over 600 pages of that is the House bill which we are rejecting. Let me say three-quarters of all you see there has been before this Senate before and has been acted on by the Senate in the past.

When my friend points to all these tax breaks, and says business is getting them, he fails to mention that business is paying for a big part of it. How do you think the securities dealers in New York, investment bankers, think about marking securities to market? It is costing them $2.5 billion. They are pretty upset and strongly protested to the Finance Committee proposal. Most of them have done very well this year. I notice some of the biggest incomes we have seen in the country.

Talking about lengthening the depreciation period for real estate, the Senator said that does not mean anything to the real estate industry; it just takes them longer to get their deduction. Nevertheless, it costs some money not to have that. Then the Senator talks about passive losses, and what happened there in the past. There is no question that the way passive losses were being handled before 1986 in this country wasn't proper. What you saw was limited partnerships with investments by doctors, lawyers, bankers, and people not in the real estate business. In Houston, TX, I began to see the see-through buildings. The same in Dallas. Without question people were building buildings for tax reasons and not economic reasons.

Senator PACKWOOD, the ranking member of the Finance Committee, the former chairman of the committee, moved to correct some of that. The problem is, as often happens, there was

an overcorrection. We finally got in the situation where real estate operators did not have the same kind of treatment that people did in other businesses. They weren't allowed to match up their winners and their losers. Now we have acted to correct that, with the assistance of the ranking member of the Finance Committee.

We did not go back and create the windfalls for the limited partnerships and the tax shelters. This is a more restrictive bill than you see in the House in that regard. I do not see the inequity in saying to people in the real estate business, you are entitled to match up your winners and match up your losers. You can do that in the parking lot business. You can do that in other businesses that the Senator and I have been involved in. I think that is fair.

It extends PEP, the personal exemption phaseout. That is for couples making over $150,000 a year.

Itemized deductions, for higher income taxpayers, that is for people making well over $100,000 a year. There is an extension of that. It is true that the Joint Tax Committee only estimates for 5 years, because it gets fuzzy going out beyond that in trying to find out what items cost—what you save and what you collect in taxes. The Joint Tax Committees does tell us that in their best judgment, beyond the 5-year window. This tax bill comes out pretty even, the gains and the losses offset each other.

The Senator talks about not charging wealthy people. The extension of the 55-percent estate tax on large estates, that is one of the highest estate taxes of any major industrial country. That is extended. That proposal brings in $1.4 billion. I did not hear the Senator mention that. That is sure not poor folks.

There is a change in the corporate estimated tax rules. That is large corporations we are talking about. That is another $2.5 billion.

The Senator seems to think this bill is targeted to the wealthy. Don't you believe it. We have targeted jobs credits in here. We have low-income housing in here.

Then we try to keep children from being farmed out to foster homes. There has been an incredible increase in that. We are talking about counseling, treatment and help for substance abuse by mothers help for crack babies, babies that no one wants to claim. They call them boarder babies. It cost over $100,000 a year to maintain life support systems for some of these babies in hospitals today. It is a great moral problem at a time when there is a limitation on what we can provide in health care. But those things are addressed. That is not for rich people. That is for people with compassion and concern about the children. Trying to give kids a better chance to be born with healthy minds and bodies. Trying to make sure they aren't farmed out to foster homes. Trying to hold families together, and trying to see that the husband is going to support that mother and that child. Those are things in this piece of legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Rhode Island, Senator CHAFEE. I appreciate the opportunity to be here on the floor and listen first to his comments and then to the comments of the chairman of the committee and a variety of other Senators.

I was particularly interested in the comments of our chairman, Senator BENTSEN. It is obviously a thankless job, being chairman of the Finance Committee. You wonder why 19 people on the committee are lined up to take it away from him if he would choose not to continue with it. But maybe this bill is an illustration of how difficult it is to be the chairman of the committee, because many of the things that have been critiqued by my colleague from Ohio have to do with urban policy. Is this good policy to resuscitate cities and provide jobs, and so forth?

I would certainly agree as a tax bill, in my view, it is not a good urban policy bill, and I will have more to say on that subject later when we get around to talking at greater length about enterprise zones.

But I do not think there is much in here that is effectively going to restore jobs to the people who are stuck in the inner cities of America. And yet the Finance Committee got handed the job of doing an urban aid bill and it got handed the job of putting enterprise zones in there because enterprise zones are sort of the frontispiece, if you will, of the administration's urban program.

I must say there is a lot of good tax policy in this bill and I think it has been much criticized by those who look at it in totality rather than those who take the time to look at it in its specifics. But it is also a good income security bill and the chairman of the committee has made some comments on that. It is good for foster kids, boarder babies, good for children, for it has many things in it that the Finance Committee has jurisdiction over that committee seems to be the principal vehicle for exercising jurisdiction that helps the needy and applying new and better policies in this country.

Unfortunately, there is nothing in there about health care, which happens to be the No. 1 and No. 2 issue in the country. The chairman and I believe that we are overdue on fixing the small group insurance reform and a variety of other national legislation that enables States and local communities to help us come to grips with these policies.

There are major parts of this bill which is policy that this Senator has disagreed with and will continue to disagree with. This happens to be one. But I could name others. The problem with naming all the others is that most of them appear in my President's economic recovery package and either I am not being a very loyal Republican or it is too late for the economic recovery and sort of sour grapes on my part to stand here and object. This happens to be one. Some of the provisions on first-time home buyers are another.

Mr. President, like you and like many people in this Chamber, I am driven by the deficit and by the concern that my generation is using a credit card to impoverish its kids.

And so, whether it is income security or health policy or tax policy or urban policy, I cannot really afford not to look closely at each of the policy provisions in this bill.

Now IRA's. Much has been said about IRA's and I do not intend to take a lot of time talking about the details. There are some very good charts up here, all of which seem to point in the same direction. I am not sure exactly what they mean, but they do point in the same direction.

I know they are popular with nearly all of our constituents and why should they not be. All of us remember the blitz of advertising that used to take place in the couple of weeks just before April 15 of every year.

I did not have any of that advertising to bring to the floor with me, but I think we all remember that somewhere between April 1 and April 15, while everybody was making decisions about how to maximize their tax benefits, if you will, IRA's become a very popular form of newspaper advertising. Banks used to advertise IRA's as the quickest and easiest way to cut the family's tax bite, and a lot of people bought, including this Senator. For a time, the banks even encouraged us to take out a loan to fund our IRA's.

I think it was our colleague from Missouri, Senator DANFORTH, who raised that as an issue in the Senate Finance Committee. And we offset the advantage of being able to go into the bank over here, borrow the money and put it in the bank over here to buy an IRA. But that is the sort of thing that went on. If we think that was going on with people who make $25,000 and $30,000 a year, I think we have another think coming.

For many other people, especially the wealthiest citizens in our States, money was merely shifted from a taxable savings account into a tax-deductible IRA and obviously the net effect on savings was nil.

So, Mr. President, for as long as I have served as a member of the Senate Finance Committee, I have noted the

genuine concern of all of my colleagues about the dismally low rate of savings in this country. And this concern has led us to adopt measures of occasionally dubious value.

I mentioned my colleague from Missouri earlier. In a rush to good judgment 1 year, he created something called the all-savers certificate. I think that lasted for about a year, year and a half, until we found out it was one of the biggest plugs we ever pulled out of the deficit dike and all of the money was running out of it.

We also had something called universal IRA's, and they did about the same thing.

There is no question that banks and similar institutions love tax subsidized gimmicks like IRA's, and so do our constituents. But did any of these tax subsidies really make a difference in our national savings rate? In this Senator's view, the answer is no.

But the evidence is quite clear as to what is going to happen to this provision.

You look in the August 6 issue of Roll Call, which is our campus magazine around here, our campus newspaper, and you see a lot of advertisements on this subject.

One of them, the most impressive one, is by Merrill Lynch, which has a tradition of trusting the people who sponsor the things that maintain Merrill Lynch in this country. Seventy-five of our colleagues are on this list. There is everyone from Senator BROCK ADAMS to Senator HARRIS WOFFORD, and 73 people in between, plus the coaches, Senator LLOYD BENTSEN and Senator BILL ROTH. And these are the people who are committed to helping America's future through bringing us Super IRA's, as they are called.

So I am not sure exactly what we are going to accomplish with this debate today, since a lot of people have already signed up in advance for some version of this particular program. But it reflects the fact that these things are popular with our constituents.

As I have said, it is popular with the banks and everybody else, because in the same issue of Roll Call, there is a full-page ad—and this is not as big as your hometown newspaper because it is a smaller newspaper, but this is a full-page ad. And it is entitled "What Can Congress Do To help Us Save, America?"

I do not know whether they want to save America, or what can they do to save, and they are addressing this to America. This is hardly read by America. But maybe they want to save America. Who are these people? They are the Savings Coalition of America.

Do you think this is all of our constituents out there? Well, no. This is mainly some of the same folks that back in 1982 got all of our constituents stirred up to tell us that what we did on withholding of dividend and interest was antisavings as well.

I can read just some of the names to give you an idea of perhaps the motivation that the savings coalition would have us invest so much of our children's future in this program.

It begins with A.G. Edwards, Inc., American Association of Engineering Societies, American Bankers Association, American Council for Capital Formation, American Council of Life Insurance, American Council on Education, American Indian Health Care Association, American League of Financial Institutions, Association of American Universities, Association of Jesuit Colleges and Universities, Citicorp/Citibank, College Savings Bank, Consumer Bankers Association, Credit Union National Association, Dean Witter Financial Service Group, Delaware Charter Guarantee & Trust Co., Edward D. Jones & Co., EMJAY Corp., First Pension Corp., and I could go all the way to the end, which is U.S. Chamber of Commerce and the U.S. League of Savings Institutions.

I ask unanimous consent that this list of the members, at least as of August 6, of the institutions which are bringing us the opportunity to save in America be printed in the RECORD.

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

THE SAVINGS COALITION OF AMERICA

A.G. Edwards, Inc.
American Association of Engineering Societies.
American Bankers Association.
American Council for Capital Formation.
American Council of Life Insurance.
American Council on Education.
American Indian Health Care Association.
American League of Financial Institutions.
Association of American Universities.
Association of Jesuit Colleges and Universities.
Citicorp/Citibank.
College Savings Bank.
Consumer Bankers Association.
Credit Union National Association.
Dean Witter Financial Services Group.
Delaware Charter Guarantee & Trust Company.
Edward D. Jones & Co.
EMJAY Corporation.
First Pension Corporation.
First Trust Corporation.
Gold Institute.
Independent Bankers Association of America.
Independent Insurance Agents of America.
Independent Trust Corporation.
IEEE—United States Activities.
Investment Company Institute.
Lincoln Trust Company.
Merrill Lynch & Co., Inc.
Mortgage Bankers Association of America.
National Association of Black Real Estate Professionals.
National Association of Federal Credit Unions.
National Association of Independent Colleges and Universities.
National Association of Life Companies.
National Association of Securities Dealers, Inc.
National Association of State Universities and Land-Grant Colleges.
National Center for Financial Education.
National Council of Community Bankers.
National Rural Electric Cooperative Association.
Prudential Securities Incorporated.
Resources Trust Company.
Retirement Accounts, Inc.
Retirement Industry Trust Association.
Savers & Investors League.
Securities Industry Association.
Sterling Trust Company.
Transcorp Pension Service.
Bill Gray, President, United Negro College Fund.
United States Chamber of Commerce.
U.S. League of Savings Institutions.

Mr. DURENBERGER. Mr. President, there are experts who are asked about the issue of savings: Is this positive on savings; not so positive on savings? I suppose the experts will come down on both sides of the issue. I did not rise here to quibble with the experts. But I must note that throughout the 1980's, during the period when universal IRA's were available, the Nation's savings rate was lower than it was in the 1950's, lower than it was in the 1960's, and lower even than it was in the 1970's.

What this suggests to me is that we made the right decision in 1986 to restrict IRA's and we should not go back on that decision for what we see as a political reason.

Moreover the budget consequences of these so-called special IRA's could be catastrophic. These are not individual retirement accounts. Let me say that again. These are not individual retirement accounts; they are tax shelters, pure and simple.

An individual can transfer money out of his current IRA, into the special IRA and pay no penalty. The individual then pays taxes over 4 years on the gains in the terminated IRA. The money transferred into the special IRA and any gains in the account can then be withdrawn tax-free after only 5 years.

Mr. President, this is a back-door IRA. This back-door IRA will raise money in the first few years because just about everybody who currently has an IRA will close the IRA and begin trading in their new special IRA.

People will now be able to trade stocks in their IRA's with the knowledge that after 5 years all the gains can come out tax-free. In other words, a zero capital gains rate for those individuals who shift their money into IRA's.

According to the Joint Tax Committee, after 1997, this proposal could lose more than $17 billion a year. I believe that is an underestimate. In 1981, we experimented with tax breaks for growth and savings. We got some growth, but we did not get savings. What we also got was the deficit.

Mr. President, there are two young people around here now promoting something called "Lead or Leave." And they are asking all of us and Members of the House to sign a pledge that we are either going to participate in re-

ducing the national budget deficit by 50 percent over the next 4 years, by 1996, or leave this place.

These are the people—who I have been predicting since 1984–85, when I got started—from something called Americans for Generational Equity, one day would either show up in this Chamber and change it or they would start a campaign built on the example of our colleague KENT CONRAD from North Dakota, who actually made the promise and then left—or is in the process of leaving. They are going to ask us all to sign up for this.

So I take this proposal with its $17 billion loss proposed in 1997, probably underestimated, and I say thank God it is 1997. You know, maybe it will not impact by the time I have to decide whether to leave or not. But everybody in this place ought to sign that pledge. Or ought to make a commitment to some similar kind of pledge, and to be prepared to do something about it.

I am concerned when I hear the chairman say we ought to bring back the old days of IRA's. I think we ought to begin a new day. And I think that new day ought to begin, not with the savings gimmicks that we have spent so much time working on, but with a commitment that all current income that is saved or invested is taxed at a lower rate or a zero rate compared with current income that is consumed. Something that cuts across the board and cannot be gimmicked.

Mr. ROTH. Will the Senator yield for a question?

Mr. DURENBERGER. I will be pleased to yield.

Mr. ROTH. The Senator used a figure of $17 billion of the cost. The cost came from the Joint Taxation. I am not aware—and I have been so advised by Joint Tax—that they have never used such a figure.

Mr. DURENBERGER. I have that figure as referenced to the Joint Tax Committee, that it is possible it could lose that much.

Mr. President, I understand, and my colleague from Delaware, I have been given to understand this figure comes from the Congressional Budget Office, CBO—rather than from the Joint Tax Committee. The Joint Tax Committee has a different estimate. I would be pleased to include their estimate in my remarks as well.

The point is simply that I have learned a lesson from the 1981 experience with IRA's. And I suggest even to my colleagues who are on this list of having signed up for the super IRA, that that does not necessarily commit them to having to be on this IRA. They might distinguish super IRA from this one, and consider that the amendment by the Senator from Rhode Island is a sensible amendment. It is an amendment to eliminate a portion of a basically good bill that does not create new savings.

Mr. President, I hope we will not repeat some of our earlier tax policy mistakes. I urge all the rest of my colleagues to support the amendment by my colleague from Rhode Island.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I wonder if I could ask the Senator from Texas, could he put back up the chart on the national savings, please, that one there? The one that shows the 1950's—yes. That is the one.

I want to use it. I want to make a few comments. I want to use this to explain how confusion over statistics can happen. The chart is titled, "Net National Savings as a Percentage of Gross National Product, Selected Years 1950 to 1990." To the right is the average for 1980–89. It appears to be about 3 percent average.

If you would look at the chart that Senator CHAFEE used which is titled, "Personal Savings as a Share of Disposable Personal Income." On his chart, the last line is the average for the 1980's. I would judge the average to be about 4.5 percent. Maybe the Senator from Rhode Island can correct me. The red line in 1987 is just about 3 percent. Everything else is above it.

I use this only to say you want to be very careful how you use these figure about savings. We are talking about two different kinds of savings. But each side would use the charts to prove the point they want to prove. And I do not mean in this sense any bad will or malice. I just want to illustrate that you want to be careful with statistics.

The chart also shows deposits. Comparing ourselves to Japan and Japan and Germany is fair, but there was a time when we did not have to save as much as they did. Our savings rate in the 1950's averaged about 7.75 percent. The closest it ever got to that rate was '60 to '69 when the savings rate was close to 8 percent. We had 2 years in the seventies when I think it was about 9 percent, but that was unusual. Our average savings rate during the forties, fifties, sixties, and early seventies, when we were growing well was never averaged more than about 7 to 7.5 percent, whereas Germany's and Japan's was much higher.

But all during the 1950's, Germany's and Japan's savings rate was higher for a very specific reason. These were devastated countries. They had to rebuild factories. If they did not have high savings rates, they did not have any capital. The United States was not pouring money into these countries. We contributed some money into the Marshall plan, but it was a modest amount compared to what the countries did themselves. If they did not have a high savings rate they could not reindustrialize. We were not destroyed in World War II. Therefore, we did not have to save 15 to 18 percent in order to succeed.

Second, we had surpluses during those years of the 1950's. We did not have to have a high savings rate to finance a deficit. Whereas today we need to have a higher savings rate than we have ever had before to finance the deficit. I am not sure foreign countries are going to be able to afford to invest in the United States for long periods of time. Japan's economy is falling and seems to be in a free-fall. Germany is occupied, justifiably, trying to reindustrialize East Germany and pick them up from communism. That is going to be a $300 to $500 billion job for West Germany over the next 5 years. They will not be able to invest as much in our debt as perhaps they used to. So there is no question that we are going to need a higher savings rate, personal savings, to help finance the deficit.

The question is a difficult one, and it is one of the reasons, frankly, I support a balanced budget amendment. I am not sure we are ever going to get to where we must be until we are compelled to. The balanced budget is for another time, for another debate.

The question is, will IRA's increase our national savings? Here the evidence is mixed. If you look at the chart of the Senator from Rhode Island, the personal savings rate went down when fully deductible IRAs were in place. The rate went up when we limited IRA's. This is true for savings as a percent of disposable personal income. That is a different figure than total savings. If the total income in the United States is $1,000 and we save $100, the savings rate is 10 percent. If the next year the total income of the United States is $2,000 and we only save $100, the savings rate has fallen to 5 percent. The total amount of savings has not fallen, but the percent of disposable income is cut in half. So this is why you should be careful when examining some of these statistics.

Having said all that, I think we need to increase savings. The question is, will IRA's induce new savings?

First, let us get over the argument that IRA's are a millionaire's device. We discovered this when we eliminated deductible IRA's in 1986 for upper-income people. Once a couple earned above $100,000, the IRA was not a large portion of their savings plan. They used it but did not rely on it. This is especially true if the couple was eligible for 401(k) plans or any other kind of savings plan. After 1986, they were not allowed to have a deductible IRA. IRA's were really a device used by people with earnings below $100,000.

So it is not a rich person's device. Frankly, current statistics show it is not used by lower income people even though after 1986 they can still take a full deductible. If you are making $20,000 a year, you cannot afford to put aside $2,000. Even though you can deduct it, you cannot afford to put it aside. You do not have it. So the people

who heavily invested in IRA's were in the $35,000 income bracket. These amounts are from 5 years ago. I do not know whether that argues for or against the amendment of the Senator from Rhode Island. Suffice it to say we are going to have to save a lot more in this country than we used to save in the 1950's and 1960's because we have, simply, a bigger deficit to finance. Also, there is going to be less foreign money to help us finance it.

Mr. BRADLEY. Will the Senator yield?

Mr. PACKWOOD. Yes; I will.

Mr. BRADLEY. Today on the floor we have had charts that purport to show national savings, household savings, personal savings. We can have any variety of savings. But would the Senator not agree that the basic question is national savings? Because our national savings is the pool of money that is available for investment. Investment produces growth. Growth produces higher standards of living.

And in economic terms, it makes no difference as to whether the deficit is reduced by $1 billion or personal savings increases $1 billion.

That means that a billion dollars is available for investment. And the basic question is whether you can ever determine what is net personal savings. A far better course, would not the Senator agree, is to reduce the deficit? If you reduce the deficit, you know you have money available for national savings—money available for whatever—more money to buy homes, more money to buy cars.

Mr. PACKWOOD. Mr. President, I hear what the Senator is saying, but our experience with extra money has not been to reduce the deficit. If we have it, we spend it. It is a figure I have cited often on the floor.

In 1950, in this country, if you counted all of the governments of the United States—Federal, State, local, all the school districts, all the water districts—we taxed about 20 percent of the gross national product and we spent about 22 percent.

So collectively we had a deficit—counting all the governments within the United States. Forty years later, we are taxing about 31 or 32 percent of it and we are spending about 35 percent of the gross national product.

So the tax has gone way up, and we have not used them to reduce the deficit, we spent the money, so we still have the deficit.

While I agree with your theory, I will wager that any extra money we have someplace in this bill will not go to reduce the deficit, it would go to be spent for something. Until we are compelled to reduce the deficit, and I mean constitutionally, we will not do it. We have proven that, unfortunately, over the years.

I wanted to comment about what the Senator from Ohio said about the passive losses. I want to use an illustration to make it clear, because passive losses is an insider's term of art.

Depreciation is something most people would understand, it creates passive losses. For example, you have a rental building, and as the building gets older, you take depreciation deductions. This may create what we would call a passive loss.

Let us take an example of what the situation was after the 1981 Tax Act.

First, we said that buildings had a life of 15 years. They do not have a life of 15 years. They usually have a life of 30, 40, 50, or 60 years, but we said 15 years. You could depreciate the whole value of the building in 15 years.

Let us say the building cost $1.5 million, and for the moment, I am going to use what we call straight line depreciation, $100,000 a year for 15 years.

You can take that $100,000 and you can offset it—this is depreciation, it is not real money you have lost—you can offset that against your income as a lawyer, doctor, or whatever else. You can offset this against your other income even though you were not involved in the real estate business; you were just an investor.

Let us say they earned $100,000 from practicing law—and I am using this for illustrious purposes—you were allowed to offset against all your other income. In other words, you could get your income down to zero.

For purposes of illustration, you take $100,000 less from depreciation and offset it against $100,000 of real income, cash income, and you have no taxable income; you pay zero taxes. That is why these buildings become a wonderful device for sucking up money. The building made no economic sense, but they made wonderful tax sense. They made doubly wonderful tax sense when you realize if you had $100,000 of income, you were in the 50 percent tax bracket.

Here is what happens with the building. You have a 15-year building, $1.5 million, you keep it for 5 years and you deduct $100,000 each year passive losses, against your income and getting your income down to zero or close to it. even though the tax rate was 50 percent, you were not paying 1 cent in taxes.

Now at the end of 5 years, you sell the building, and there has been some inflation, you sell the building for $2 million. Now your basis, as we call it in the tax law, how much profit you made, is not the difference between $1.5 and $2 million, it is between $1 and $2 million because you have depreciated the building, 5-year's worth. And it was a capital gain. So you only paid a 20 percent tax on the million dollar gain.

So for a number of years, you avoided paying taxes altogether when you were at the 50 percent rate and then you have $1 million profit 1 year and pay a 20 percent tax. It is no wonder people built these buildings.

There is a wonderful quote—I guess he is not the manager of the hotel anymore—from a fellow who used to be the manager of the Western Hotel in 1989. He said, "The hotel business used to be a wonderful business. People invested in it for a tax shelter." He said, "Now people will not invest in hotels unless they can make money." That is what we intended.

But we really hit real estate hard in 1986. We did not treat them like any other business. We just said, in essence, in real estate after 1986 you cannot have any passive losses that you can offset against your other active income.

In any other business, if you are what we would call an active participant in the business—you are running your grocery store, your gas station or chain of 10 services stations and you are actually the manager, the owner, the operator, the participant, the one actively involved in the business—then you can deduct those losses against your other active income. They really are not passive losses.

We said with real estate, you cannot do that. It did not matter if you built the apartment, lived in the apartment, you managed the apartment, you cleaned the toilets, swept the floors, and collected the rents, you could not offset the losses from your rental real estate activities against your other active real estate business income.

All this bill does is provide that those in the real estate business will now be treated like professionals in other businesses. We are not going back to where we were in 1981. You have to be an active participant in the business and you have to meet a certain threshold that is a commonly known threshold for the Internal Revenue Service, and they know how to figure it. You have to prove you materially participate and, if you do, you will be able to write off your rental real losses against your other real estate trade or business income.

There is nothing wrong with that. The reason in 1986 we hit real estate so hard is because it was the largest tax shelter. When you could couple passive losses, capital gains and really no effective minimum tax, that is how you got these stories every year that came from the IRS of how 580 people made $1 million last year and paid no taxes. In 1986, we would have to go home and attempt to justify this to people making $25,000 and paying $1,000, $1,500 in taxes.

We still have a very tough minimum tax. We have not significantly changed that.

This bill increases the depreciation period for commercial property to 40 years. Now remember, just 10 years ago we were talking about 15 years; 8 years ago we were talking about 15 years. We now say 40 years, no up-front deductions, and no accelerated depreciation.

So we have now made the building closer to its useful life, some buildings

might be shorter and some buildings might be longer, but 40 years is reasonable. Many people in the real estate business would say that 40 years is an artificially long period. The 40-year depreciation is not an egregious break to the real estate industry.

As for the other comments the Senator from Ohio made, I might agree with some, but I will say the chairman has done a good job, although I do disagree with the bill in the enterprise zones, and we will get to that debate, and where we have taken out the first-time home buyer credit.

I thought that was a good credit. Young people trying to buy a home have a difficult time. But by and large this bill is not a giveaway to the rich. We tried to correct some errors where we thought there were some errors. There may be some honest differences of opinion as to whether we did that properly.

On balance, the bill is a good bill and a fair bill. I hope eventually—I fear now in September—I hope eventually that this bill will pass.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield to the Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished chairman. I was former Finance Committee chairman and can commiserate with the Senator from Texas and the Senator from Oregon, and former chairman.

I want to make it clear, I do not think anybody opposes IRA's on the Finance Committee. In fact, the concept of the universal IRA originated when I was chairman of the Finance Committee in 1981. We adopted the universal IRA because we thought it was good savings policy and we thought it was good retirement policy. And the initial response, as has already been demonstrated here, was overwhelming, each more than we expected. When we last discussed this issue in 1986, we discussed that the actual revenue impact was about four times as large as we had originally estimated.

But this unexpected revenue loss led to efforts to cut back on IRA's as a budget initiative because we could not do all the other things in the tax bill and still have the universal IRA, but we rejected most of those efforts. When the time came in 1986 to review and restructure the entire Revenue Code, we had to strike a balance so we might reduce the rates for all taxpayers. And no doubt about it, the IRA's were part of that tradeoff. We could not have it both ways then, Mr. President, and I am not certain we can have it both ways today.

I know that the Senator from Texas and the Senator from Delaware have spent hundreds and hundreds of hours on this issue. It has particularly been a mission for the distinguished Senator from Delaware, but a dramatic increase in IRA's today, if paid for PEP and PEASE, will result in a tax increase; a tax increase I might add to pay for a tax benefit for the more well-to-do. No question about it, this is for the more well-to-do, and no doubt about it, IRA's favor upper-income retirement over a family struggling to save enough to buy a home or send a child to college.

According to a mutual fund survey, the typical taxpayer who contributes to an IRA is 40 to 60 years of age, higher educated and has a higher income than the average taxpayer.

The people we care about, at least if we listen to all the Senators around here, the low- and middle-income, can under current law continue to make tax deductible contributions to IRA's. So it is not this group we are trying to help; it is the upper-income people, the group we keep talking about we ought to make pay more taxes, we ought to make them do a lot of things.

As my distinguished colleague from New Jersey correctly pointed out, more than 70 percent can claim a deduction now. Why do we need more at a time when our deficit should be a priority—I happen to believe that is still what everybody believes—as it is really what is killing the economy and putting us all at risk.

I certainly support penalty free withdrawals from individual retirement accounts for purchase of a first home, educational expenses, catastrophic medical expenses or in cases of long-term unemployment.

I believe these situations warrant the penalty-free status accorded by the Bentsen bill and that many needy individuals and families will benefit.

But I think the expansion of the IRA sort of dwarfs these necessary changes.

There have been all kinds of editorials, all kinds of estimates—nobody knows for certain—we are going to loose estimated revenues of about $10 billion per year.

Now, if the deficit is a problem, and if we are not trying to help the rich or the upper income or the wealthy, it seems to me that there are other things we might do. I would like to have the home buyers credit restored with some of the money we may be spending here. I would like to have the investment tax allowance restored. They were removed earlier in modification by the majority to make way for additonal enterprise zones. So there are a number of priorities that I think we might want to address.

I ask unanimous consent that certain editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 10, 1992]

WORM IN THE TAX BILL

The Senate is scheduled to take up a tax bill today that is supposed to strengthen both the economy and the cities but in the long run will reduce the ability of government to come to the aid of either one. The bill's most important provision would put an entire new category of investment income beyond the reach of the tax collector.

Taxable now, this broad stream of income would become permanently tax-exempt. The Treasury would eventually lose—and the mostly upper-income beneficiaries would gain—an estimated $10 billion a year. That's how much larger than otherwise the future deficit would be, how much more the government would have to borrow and how much less it would have to spend on other purposes—urban aid, for example. The theory is that the tax forgiveness would increase national savings; the likely effect would be a reduction instead. This damaging proposal ought to be struck from the bill, or the bill should be killed.

The rest of the bill is pretty ordinary; for a tax bill in a presidential election year, it is even tame. Partly it is a housekeeping measure, extending various "temporary" provisions that were never intended except on paper to expire, tidying up some ragged others. Partly it also includes the weak remains of last spring's full-throated promises on the part of both parties to aid the cities; not much there. Most of all, as a way of neutralizing the president's complaint that Congress won't act on his proposals to revive the economy, it has become the repository for his "growth initiatives," which represent neither much likely growth nor much initiative. To these the members have added some mostly minor pet provisions of their own.

These routine provisions could be more solidly financed, but they're not the problem. The problem is an innocent-sounding provision to create a new kind of IRA, or individual retirement account.

The old IRA benefit was merely tax deferral. A taxpayer or spouse could contribute up to $2,000 a year and deduct it. Taxes were paid on the contributions and earnings later in life as the money was withdrawn. In the 1986 tax reform act, Congress took the benefit away from upper-income taxpayers on grounds they didn't need it and were mainly transferring into tax-advantaged IRAs money they were going to save anyway would reverse the reform, then also create the new kind of IRA. Contributions to these would not be deductible, but then the earnings—so long as the money was left in for at least five years—would never be taxed at all.

It's a giveaway, constructed so that the full effects would not be felt until after the five-year estimating periods that is all that counts under the budget rules. The sponsors claim they nonetheless have paid for it, and indeed they have—mainly by declaring permanent two other "temporary" tax provisions adopted as part of the 1990 budget agreement that no one expected to expire, either. A huge new tax break is offset by a comparable "increase" that involves no change in current levels of liability.

The Democrats are caught between two deficits these days, one fiscal, the other social. The Republicans love it, because the Democrats are hamstrung; they don't have the billions they need to carry out their social agenda. If a Democratic Congress enacts this regressive provision, they'll have $10 billion less.

[From the Washington Post]

YES, VETO THE TAX BILL

Jack Kemp says that the president should veto the Senate Finance Committee tax bill if it reaches him in its present form. The ir-

repressible housing secretary is absolutely right, but unfortunately for all the wrong reasons. Most of the tax cuts that second-rate buffet contains would do little economic good and aren't really paid for, so that in the aggregate, by increasing the deficit, they would do considerable harm. The unregenerate Mr. Kemp's supply-side solution to the problem would be to exacerbate it; a bill without a cut in the capital gains tax—at least such a cut within enterprise zones—is not worth having, he says. His cure would make the problem worse, not better.

This bill was written and seems likely to pass much more for political reasons than for any economic virtue. The president has accused the Democrats of contributing to the economy's weakness by failing to pass his "growth initiatives." The bill would give him most of these minor adjustments; the table of contents comes largely from his budget. He gets most of his program at the cost of an issue; the Democrats neutralize the issue, shift the finger of blame back to him and have a legislative trophy to wave besides. Government works; that will be part of the message you will hear from both parties.

But not many people are seriously claiming that the bill itself will work—that the provisions as distinct from the parliamentary achievement will make that much difference. Senate majority leader and Finance Committee member BOB DOLE was climbing off the measure even as he helped to send it to the floor. "It's not going to change the economy in three months very much, but at least it's an indication we can get things done," he was quoted as saying.

One provision from the president's budget is an "investment tax allowance" or special depreciation rate for equipment bought in the next year. But the government then would quickly recover the taxes forgone, or most of them, because the businesses would have that much less depreciation to claim later; the stimulus is a deferral only. Another provision would give a $2,500 credit for the rest of this year only to first-time home buyers; what will that turn around? The alternative minimum taxes on profitable corporations and well-off individuals were slightly eased; the minimums are meant to make sure that such companies and people pay something no matter how good their tax attorneys are. A number of minor breaks were also given to the hurting real estate industry.

There's more, but none of it calculated to give much lift to a $6 trillion economy. The most important provision is a huge, unwarranted and unfunded future giveaway to the better-off in the form of a new IRA, or individual retirement account. It would add $10 billion a year to turn-of-the-century deficits and the inability to govern. Instead of debating that, the administration and senators are debating what the capital gains tax rate should be in a handful of enterprise zones. This is a debate over symbols, not substance; the bill itself is a symbol of a government that has ceased to function in a serious way.

[From the Washington Post, July 31, 1992]

WORST BILL OF THE YEAR

In the misappropriate names of fiscal responsibility, urban aid and economic growth, the Senate Finance Committee has produced what could well be the worst bill of the year. This is a tax bill whose real effect would be to reduce the future ability of the government either to manage the economy or to aid the cities; it would do this by adding billions of unacknowledged dollars to the deficit, largely in the form of benefits to the better-off.

The sponsors claim the mislabeled bill is revenue-neutral. The neutrality is a fiction, the product of a set of blind-eye accounting conventions that artificially increase revenues while obscuring costs. More than half the tax increases that the bill would ostensibly impose in the next five years to pay for the cuts it would give are artificial. The counterfeit claim is likewise made that the bill would stimulate growth by increasing national savings, when in fact by increasing the deficit it would much more likely reduce those savings. The urban provisions, the bill's original rationale, have meanwhile been reduced to a footnote; they are inconsequential.

The legislation is said to contain about $30 billion in matching tax increases and cuts over the next five years. In fact, by the committee's own reckoning, at least $17.5 billion of these "increases" are merely speed-ups, money the government would have gotten a few months or years later anyway. Ultimate tax liability would be unchanged, and in some cases revenues would be increased between now and 1997 only by reducing them thereafter. Another $7.7 billion would be achieved by simply extending two provisions of current law: the phase-out of the personal exemption and limits on deductions for higher-income taxpayers that were voted in 1990 and no one expected to expire. Again, current liability would be unchanged. Meanwhile, some of the larger cuts in the bill were carefully constructed so that their full effects would not show up until after the five-year accounting period; the costs are masked.

The most flagrant such masking involves a new kind of backloaded IRA, or individual retirement account. It and the other generous IRA provisions in the bill are projected to have a net cost of $7.7 billion over the five-year period. But in the long run this provision alone is expected to cost as much as $10 billion in a single year. The IRA provisions, which the administration also supports, would end up shifting an enormous share of the country's investment income from taxable to tax-deferred or tax-exempt status. That, in the name of growth, is the election-year handiwork of some of the same politicians who not too many weeks ago were piously urging adoption of a balanced-budget amendment to the Constitution in the face of the $400 billion deficit that they have created.

The bill is full of such supposed stimuli for savings and growth. Not even most of the people who will vote for it think that it will produce very much of either. For all the rhetoric that will surround it, its main effect will be to shift even more of the burden of government to middle class that can't afford it. The urban aid has meanwhile been turned into a minor pumpkin of some enterprise zones that hardly anyone believes in, either, plus a little bit of social spending. They ought to kill this hulk, just a they killed the year's earlier tax bill. The main purpose of this bill is not so much to produce results as to give the appearance of producing them in an election year.

Mr. DOLE. It seems to me that notwithstanding the argument that has been made—and I do not quarrel with the argument that has been made—this is not what will restore the economy and get the economy moving. There is no certainty there is anything we can do in the Congress that is going to get the economy moving, but I am not certain this should be the centerpiece. I hope that the Chafee amendment might prevail.

Mr. BENTSEN. Mr. President, I have discussed this with the author of the legislation, and at some point I will be moving to table. I would prefer to do that at 7 o'clock, if he feels he has had adequate time to discuss this issue. We have been at it for some time.

I would like to say, with respect to the comments of the minority leader, no, this bill is not going to turn the economy around overnight. There is no question about that. We did not get into this mess overnight. It is going to take awhile to accomplish it.

I would like to look at it as being a downpayment to try to move us in the direction of getting this economy moving again, and much more of it has to be done in the year to come. I am sure it will be a big part of the Presidential debate this year on both sides. But to the degree that we can make this a bipartisan movement in that direction, that is what I am trying to do.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I will be very brief.

I congratulate the Senator from Texas and the Senator from Delaware on their leadership in cosponsoring the Super-IRA provisions of this bill. I think it is evident to all of us that America is losing the international savings game. As a percentage of our gross domestic product, Americans save less than do citizens of Canada, Japan, France, Germany, or United Kingdom. Our savings rates are now 25 percent lower than they were in 1980 and a full 50 percent below what they were in the 1950's, 1960's, and 1970's.

I think it is legitimate to question what this may mean, Mr. President. It is no secret money goes to the highest return the least risk. We have attracted tremendous amounts of foreign savings in purchases of our Treasury bills to offset the financing of our deficit, nearly $4 trillion of accumulated debt, and the interest on that is running about 15 percent of our current budget.

I think it is evident that IRA's have proved themselves in the past. In 1986, IRA's accounted for nearly one-third of the personal savings in this country, but the savings rate fell back to its lowest point in a century following the cutback in IRA's in 1986. It is simple. The full deductible IRA's worked well and I am pleased to say that this bill will bring them back.

I would also note that H.R. 11 includes a provision to include penalty-free withdrawals for first-time home purchases. I remind my colleagues that the value of that incentive has already been lost as a consequence of the

crunch in the Pacific Northwest timber market which has resulted from the spotted owl issue. That crunch, if you will, has increased the cost of the average home on the west coast by approximately $5,000 per home for a home roughly 2,800 square feet.

So we really have not gained much there.

On another issue, I think we should reflect on the policy which has prevailed in this Nation for some time, and that is that more often than not we have rewarded the accumulation of debt. We do not have to go back many years to the time when debt was deductible, your credit card debt was deductible on your income tax, and clearly to have a system that rewards debt and does not induce or provide incentives for savings is contrary not just to fiscal responsibility but to the fact that in order to have a prosperous Nation we must have adequate sources of savings, and to have high savings we must have the inducement to save. I am pleased to say that is what the Bentsen and Roth Super IRA provisions of H.R. 11 do. I am pleased to support those provisions.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to confess right up front I was a cosponsor of Senators BENTSEN and ROTH's special or Super IRA bill. But I rise tonight, to support Senator CHAFEE's motion to strike the IRA provisions from the bill. Let me take a couple of minutes of the Senate's time to discuss it.

I do not think there is any question but that the United States of America has a serious problem with sustained economic growth at low inflation rates, which ought to be the principal, prime policy goal of this Nation and all of our leaders, because sustained economic growth at low inflation rates means increased opportunity for everyone.

Economic growth provides more Americans with a chance to do for themselves and attain upward mobility than any other policy we could have.

Having said that, there may be a number of things that adversely affect our ability to sustain, with any consistency, a high rate of growth. But there is one that is certain, and that is the lack of savings by the U.S. people. There are too few savings available to stock and feed the machines of growth.

Actually, one can talk about trying to sensitize the American people to save more. But the truth of the matter is that until and unless you change our appetite for deficit spending, you cannot really significantly increase the net savings rate. You can do all of the sensitizing you want, but if the deficit keeps going up, you have a gobble machine, gobbling up the savings, even if you had a nice, neat way to excite people about savings.

I see my friend from New Jersey wants to ask a question or make an observation.

Mr. BRADLEY. Yes, Mr. President. Does the Senator not admit that the GAO report, that we jointly requested, "The Deficit and its Growth," shows that if there are no changes made by the year 2020, interest on the Federal debt will be $1 trillion?

Mr. DOMENICI. That is correct.

Mr. BRADLEY. Does the Senator not agree, Mr. President, that if we are truly interested in savings, that reducing the budget deficit is the best way to achieve national savings?

Mr. DOMENICI. No question; we repeat what many others have said.

Mr. BRADLEY. Does the Senator also not agree that the provision that purports, without sufficient evidence, to increase personal savings a small amount, but costs in the longrun large increases in the Federal deficit, is not worth it at this time?

Mr. DOMENICI. No question about it, Mr. President.

Now that I have made my initial thoughts known to the Senate, let me proceed with a couple of additional ones.

Actually, we are not going to do a great deal to change the personal habits of the American people regarding savings, I regret to say, until we change the emphasis of the Tax Code of the U.S. Government.

We have a kind of a policy that one part of it goes to the left, and one part goes to the right. Most current tax policies regarding savings have the effect of discouraging savings. On the other hand, we say we want savings. So we enact certain specialty incentives, yet overall tax policy is against it.

The Tax Code encourages consumption. The more you borrow, the more you buy on installment, the less you save; the better off you are under our Tax Code. That goes for individuals and it goes for business. Therefore, how are you going to get savings up until you face that issue?

If you want to know what President Bush, if he is reelected ought to do to change things, it is to come forward with a statement that the Tax Code of the United States will ruin the American people and the economy. Because you cannot tell the American people: "Spend, don't save"; and on the other hand, say "The economy needs savings." Impossible. You have to change the basic Tax Code to some kind of consumption-based income tax; that will encourage saving and discourage consumption.

Even that kind of model has been produced of late, and it is pretty good. I say such a tax can be made progressive; it can be an income tax that is based upon consumption. It is a rather exciting concept, and it ought to be advocated by some American leaders who are in charge of changing the laws.

Having said that, let me suggest that the deficit, which eats up what savings we have, should not be added to here on the Senate floor by reinstituting IRA's. It is ironic that we would add to the deficit in the name of savings.

You see, we now have less than 3 years left on this budget agreement. So if you can get anything outside the window, you are not governed by anything like what is the effect of the revenues. You are exempt from the so-called "Hey, let us be sensible about this." Let us sort of pay-as-you-go.

And it is not perfect. The pay-as-you-go has some very serious idiosyncrasies. We really should let you average over the years, instead of making you meet that pay-as-you-go each year. We are inviting some distortions. And this special IRA takes advantage of that, because—it is an accident of it—it makes some revenue in the first years.

So it is nice for those writing tax bills, because you can give this great, great gift to the American people; meet the onerous burdens of the budget agreement; and say to everyone: Everybody is coming out fine. Except that 5, 6, 7, 8, 9, and 10 years from now, you are starting to add $10 billion a year, even $15 billion a year in less revenue take. But it is outside the window of the budget agreement.

I am fully aware that nobody who is proposing this is suggesting that it do anything but good for the country. Those who suggest it say it is going to cause dramatic changes in the savings patterns of our people.

If I believed that for a minute—that it would dramatically change them and dramatically accelerate the amount of savings, out of proportion or disproportionate to the increase in the deficit—then I would say maybe we have something.

But I am not at all convinced that that is the case. I am convinced the amount that you are going to add to the deficit by loss of revenues is in no way going to be made up by the addition to the net savings pot and pool of American total resources by way of savings. And, therefore, it is a net loser in that regard.

From my standpoint, talking about where we were 5, 6, 8 months ago versus today, we have lost something very important in that period of time. Those on that side of the aisle would say it is the President's fault; we would say, on this side of the aisle, that it was their fault. We lost the investment tax credit—the temporary one, the 15 percent one—called an allowance. We lost the incentive for the home buyers.

Some do not think it is necessary, but 7, 8, 9 months ago, those were two very important parts of a minimum package.

In this bill that is brought to the floor, those two have been relegated to 3 or 4 months anyway. So they were not worth much. I have been heard to

say that heretofore. But the point of it is, in order to fill the gap for the IRA's, what it would cost, you had to narrow down or skinny down those two to 3 or 4 months. And I do not think that was worthwhile, either. I would have had the two in for the next 18 months, even if you could not afford any of the IRA's—the normal one or this one. But that did not happen.

I am here on only one issue. I commend the Senator from Rhode Island for bringing the issue to us.

I do not want to use any more time. Much has been said about this.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we are coming close to a vote. At this point, I would like to briefly summarize.

First, what is the existing situation as far as IRA's go? Everybody who is an individual with an income of $25,000 or less can get the complete deduction. Families with incomes of $40,000 or less can get the complete deduction. That is 80 percent of the individuals in the United States of America which are eligible.

In addition, for those who are above those brackets, Mr. President, still an IRA has an enticement to it, because those who are above those brackets can put after-tax dollars, to the extent of $2,000, into an IRA. During that period until the individual retires, and indeed, up to the age of 72 of that individual, the total buildup within that IRA is tax free. It is not taxable to the individual every year—the appreciation, the interest, and the dividend.

So, Mr. President, that is a very, very satisfactory arrangement. In addition, there is one more feature. Even if an individual is a millionaire, if they are not a participant in a pension plan, that individual can get the total deduction under the IRA.

So, Mr. President, nobody can say that IRA's are not very generous right now—right now.

What has the chairman of the committee proposed? He has proposed the following: First, that everybody, regardless of his or her income, earned income, can have the benefit of an IRA, the total deduction of $2,000.

In addition—this is the kicker, Mr. President, that I really find appalling in these times of tremendous deficits—there is a provision that if you so choose to not take a deduction, but instead put in after-tax dollars, not only will the total buildup within that individual retirement account be nontaxable, while it is occurring, but when you withdraw it—and indeed you can withdraw it as early as 5 years, so it really has nothing to do with retirement. When you withdraw it, you can get all that appreciation, interest, and dividends tax free.

Mr. President, I am astonished at this proposal.

Mr. BRADLEY. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. BRADLEY. Does the Senator mean to say that—contrary to the way we have always thought of IRA's, which was that you get your $2,000 deduction, you put your money in an account, and it accrues interest, tax free; and when you retire, you take it out and you pay taxes on it—the Senator is saying that under this provision you put in after-tax dollars, it accrues interest tax free, and then you take out whatever amount it is and pay no taxes?

Mr. CHAFEE. The Senator is absolutely right. If you can be fortunate enough to invest it in Merck, Coca-Cola, and maybe you triple your money like any other citizen in the United States, you take that money out tax free.

Mr. BRADLEY. That increases the deficit.

Mr. CHAFEE. This is the ultimate in zero capital gains. I mean, it is so odd that many in this body are disturbed over a cut in the rate of capital gains. This is zero capital gains.

What will this cost the Treasury of the United States? Mind you, Mr. President, this takes place 5 years out. So, as I previously mentioned, the Joint Tax Committee will not give us an estimate. However, we have two estimates that are not that far apart, although they are dealing with something that occurs 5 years out.

The Congressional Research Service, in a March 5, 1992, letter from Jane G. Gravelle, senior specialist in economic policy, says: "We estimate that the long-run, steady-State cost, at current income levels, would be slightly over $11 billion per year."

Mr. President, we have here an estimate, as I previously gave, from the Congressional Budget Office, prepared at the request of the Senate Committee on Appropriations. On page 44, an analysis. There, depending on how much would shift, "the annual loss would stabilize at about $17 billion."

Mr. President, which is right, I do not know. All I am saying is that this is an extremely expensive program, particularly the so-called backloaded IRA's that, as I say, should not—it should be an IA, individual account, not an individual retirement account, because it has nothing to do with retirement. Mr. President, there we are. I hope that everybody who is deeply concerned, as I believe every Senator is, about the deficits of the United States of America will vote in favor of this amendment.

Mr. BRADLEY. Will the Senator yield for another question?

Mr. CHAFEE. Yes.

Mr. BRADLEY. Does this provision in the tax bill do anything for people making $20,000 or $30,000 or $40,000?

Mr. CHAFEE. If they are a family, it does nothing for them.

Mr. BRADLEY. Would it be correct to perhaps call this an expanded tax entitlement for the top 18 percent of taxpayers in this country?

Mr. CHAFEE. There ought to be jubilation in all of the country clubs in America, Mr. President. This really is a great program for those who are in the upper-income brackets.

Mr. LEVIN. Mr. President, I am voting to table the Chafee amendment because I support expanding the eligibility for individual retirement accounts [IRA's]. I believe that IRA's for which a deduction is given at the time a person deposits money into the IRA is an important savings incentive. I think it was a major error in the 1986 tax reform bill when we greatly restricted the availability of this form of IRA. It was one of the reasons why I voted against the Tax Reform Act of 1986.

However, I am concerned about the portion of the Finance Committee bill, known as the back-loaded IRA. Although there does not appear to be an official estimate of the long-term revenue loss associated with this proposal, there have been references during the debate to the possibility that this provision could cost billions of dollars in revenue after 1997. I would urge the Finance Committee to look further into this issue while the bill is still on the floor or in the conference with the House. I have talked many times on this floor about the dangers of the budget deficit to the long-term economic health of our country. We must be very careful to avoid making it more difficult to deal with that urgent and serious problem.

Mr. BENTSEN. Mr. President, we have had a good debate and a thorough debate, and all sides have expressed their views. What we are talking about is trying to increase savings in this country, trying to have the capital to be able to modernize, to make ourselves internationally competitive. We are looking at our top competitors, the Japanese, saving at three times our rate, the Germans at twice our rate.

We are trying to let people accomplish some of their most cherished objectives, such as owning their first home, sending their kids to college, taking care of a catastrophic illness, and taking care of their retirement. We have 78 cosponsors on this piece of legislation, who believe this is the way to go.

And, we pay for it. We pay for it all the way beyond the 5-year window, and the Joint Tax Committee says we have done that. We pay for it by people having a phaseout of the personal exemption of those making over $150,000 or more, by putting a limitation on our itemized deductions for those people making $100,000 to $125,000 or more. So we have matched them together to accomplish an objective that is good for our country—increasing our savings.

Mr. President, I join with the distinguished Senator from Delaware [Mr. ROTH] and I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 25, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—72

Adams	Exon	McConnell
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Garn	Murkowski
Biden	Glenn	Nickles
Bingaman	Gramm	Nunn
Bond	Grassley	Pell
Boren	Harkin	Pressler
Breaux	Hatch	Pryor
Brown	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Hollings	Robb
Burns	Inouye	Rockefeller
Coats	Johnston	Roth
Cochran	Kasten	Sanford
Conrad	Kennedy	Seymour
Craig	Kohl	Shelby
Cranston	Lautenberg	Smith
D'Amato	Leahy	Specter
Danforth	Levin	Symms
Daschle	Lieberman	Thurmond
DeConcini	Lott	Wallop
Dixon	Mack	Wirth
Dodd	McCain	Wofford

NAYS—25

Bradley	Jeffords	Sarbanes
Byrd	Kassebaum	Sasser
Chafee	Kerrey	Simon
Cohen	Kerry	Simpson
Dole	Lugar	Stevens
Domenici	Metzenbaum	Warner
Durenberger	Moynihan	Wellstone
Gorton	Packwood	
Graham	Rudman	

NOT VOTING—3

Burdick	Gore	Helms

So the motion to table the amendment (No. 2933) was agreed to.

FARMER COOPERATIVES

Mr. DANFORTH. Mr. President, I wish to commend the distinguished Senator from Texas for his modification regarding farmer cooperatives to the Finance Committee amendment to H.R. 11.

Mr. President, this is vitally important legislation for farmer cooperatives. Leaders from both local cooperative associations in Missouri and from the regional cooperatives they own have spoken to me about the need for congressional action in this area. Radical change in the Code is not needed. Clarification of congressional intent is. Presently, cooperatives are receiving conflicting signals from the courts and the Internal Revenue Service as to what may be treated as patronage sourced income. This has been a particular problem with respect to sales of assets held by cooperatives for use in connection with day-to-day patronage operations. As a result, cooperatives face great uncertainty in their tax and financial planning. They also are incurring millions of dollars of outlays in administrative disputes with the IRS in litigation in the courts.

Under subchapter T of the Internal Revenue Code, farmer cooperatives are required to determine whether income or loss items derive from patronage or nonpatronage sources. The distinction is important because patronage sourced items are not subject to tax at the cooperative level provided it is distributed as a patronage dividend. Nonpatronage sourced income is taxable at the cooperative level whether or not it is distributed to patrons. There is substantial case law discussing what is properly characterized as patronage income. The courts have repeatedly endorsed the facilitative test as the standard for determining whether an income or loss item is patronage sourced. By this measure, patronage treatment results whenever a cooperative realizes income or loss from a sale or other transaction involving any asset that is used in more than an incidental manner to facilitate the conduct of business done with or for patrons.

The proposed amendment would codify the facilitative test and clarify that the test applies to all types of assets whether they are tangible or intangible, depreciable or nondepreciable, capital or noncapital. Therefore, I would like to emphasize, in particular, that the amendment is aimed at clarifying the facilitative test. The application of that test requires what is essentially a factual inquiry: namely, whether the asset disposed of, whatever its nature or character, was actually used by cooperative "to facilitate the conduct of business done with or for patrons." Under the proposed amendment, the burden of proof for this test remains with the farmer cooperative.

It is my understanding that the very same factual inquiry is required under existing law. In view of the clarifying purpose of the modification, the IRS should make every effort to resolve current disputes in a manner consistent with the facilitative test provision of the modification.

Mr. President, farmer cooperatives play a unique role in meeting the enormous agricultural demands of this great country. Enactment of this legislation will remove a substantial and unnecessary impediment that cooperatives and their member-patrons now face in carrying out that important role.

This is important for Missouri. It is important for the Nation.

CREATION OF TREASURY FORFEITURE FUND

Mr. GLENN. Mr. President, I rise today to voice my objection to the creation of a new forfeiture fund in the Department of the Treasury by this amendment, which is titled the Treasury Forfeiture Fund Act of 1992.

As chairman of the Governmental Affairs Committee I have taken an active role in the implementation, effectiveness, and efficiency of the Department of Justice [DOJ] and Customs Service forfeiture funds. In May of last year my Committee held a hearing on the possibility of consolidating the two funds then in existence. The GAO had completed a study at the Committee's direction and determined that the consolidation of management functions would save the government money. One big factor in that determination was the elimination of duplication of similar efforts by different government agencies. The Justice and Treasury Departments are the two leaders in seizing assets. GAO testified that a needed first step in asset consolidation included these two agencies.

This proposal would create a new forfeiture fund in the Treasury Department that does exactly what the Justice fund does. How many little slush funds, administered by department heads and unaccountable to Congress do we need?

In May of last year, after the GAO testified, both the Treasury and Justice Departments pledged to work together toward a consolidation of management of assets and the elimination of duplication of effort. This act would defeat the very purpose that the Justice and Treasury Departments were trying to achieve. Rather than streamlining and downsizing duplicative purposes and functions, it would increase the Treasury Department management, without significantly reducing the Justice asset management office. This is simply not good management or good government. It is a waste, and an unnecessary expense.

The new Treasury fund would simply create competing interests among law enforcement agencies. Apart from the obvious waste of resources, this duplication of effort and services would encourage a dash for cash among local law enforcement officers who want to share in the profits based on their participation in Federal cases. An unhealthy competition would be created in which local law enforcement officials could sell their services to the highest bidder. We would wind up with a law enforcement effort fueled not by solid law enforcement principles, but rather by free market capitalism.

The Justice Department currently administers a fund which collects, manages and disperses the assets seized

by agents of the FBI, DEA, Postal Inspectors, IRS, Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Immigration and Naturalization Service. In addition, the Customs Service has its own fund. When members of the Governmental Affairs Committee staff met with representatives of all of these law enforcement agencies, they expressed satisfaction with the way the Justice Department was handling the fund, and did not complain of unreasonable delays nor did they find fault with Justice's decisions.

Now the Treasury Department has come to Congress claiming that the Justice Department fund has not served its purposes and it needs to run its own fund. Mr. President, this situation is becoming just like the "M" accounts where agencies are able to create slush funds that are outside the review of the appropriators and everyone else in Congress. As we have found with these M accounts, they do not die, they multiply.

Why is the Treasury Department insisting that it needs its own fund? We are told that it is because of problems in decisionmaking and delays at the Justice Department. This just does not wash. I am sure the Justice Department can improve the management of its fund. But I am equally sure that the creation of a new fund in another agency will serve no useful purpose.

I understand that Attorney General Barr has taken the position that he does not oppose the creation of this second forfeiture fund. That is all very well and good, but I still do not think we here in Congress should then acquiese simply because the Justice Department has decided it can live with this decision. It is our responsibility and duty to look at the bigger picture, the scope of the entire Government, and determine whether this makes good management sense. It is my firmly held position that it does not. Therefore I urge the chairman of the Finance Committee to delete this amendment from the bill, and I urge my colleagues to agree with me and strike this amendment if it is offered.

Mr. MOYNIHAN. Mr. President, I rise to call attention to two provisions of the Revenue Act.

In the hope that these words might be heard, and perhaps read, I will be brief.

The bill incorporates the Charitable Contributions Tax Act of 1992, which I introduced earlier this year along with Senators DANFORTH and BOREN. It provides for permanent repeal of restrictions on the deductibility of gifts of appreciated property. These include works of art, securities, collections, and such. It also removes the cap on the amount of tax-exempt bonds that can be issued by private colleges and universities, and restores to them their status as exempt persons under the Tax Code.

This section could well be the most important tax legislation of this decade. It will not be seen as such; which is precisely the reason it could be. The United States is the only country on Earth in which by and large the most important institutions of the civic culture are private. Which is to say, they are not Government institutions. This comes so naturally to us that we hardly notice it.

But consider, 60 percent of all first professional degrees in fields such as medicine, engineering, business, and law are granted by private colleges and universities. We take this for granted; it would be unimaginable in, say, Europe where education is overwhelmingly the domain of government. Similarly, our great research hospitals, our treasure-filled museums, our symphony orchestras, opera companies, zoological and botanical institutes, are almost all of them—outside of the capital—institutions founded by private citizens and to this day run by boards made up of private citizens. They are heavily dependent on private endowments and private gifts.

We also take for granted, or somehow assume, that these private institutions are wealthy. Well, they aren't. We look up and find them, especially the research universities, in trouble all over the land. This trouble could develop to the point where the finest institutions of learning on Earth, the most productive sector of American society, begin an irreversible decline. It wouldn't take long. The great Viennese economist, Joseph Schumpeter, predicted that the decline of liberal society would come about through the conquest of the private sector by the public sector. We are betting that it needn't. It is a big bet.

New York State is home to more of these private institutions than any other State in the Nation, more than any other nation on earth. Consider just some of our research universities: Columbia, NYU, Rockefeller, Rochester, Cornell. These are institutions of world status. And they go far back in our history, and in the history of modern science. Columbia, as King's College, received its charter from George II in 1754. Just so, our medical centers, New York Hospital, which received its charter from George III in 1771; Columbia-Presbyterian, Mount Sinai, the list goes on. Our New York Philharmonic was founded in 1842, before, that is, nine-tenths of the nations in the world today even existed. Our Metropolitan Opera, was founded in 1883. Come to think, Lorenzo da Ponte, who wrote the libretto of Don Giovanni, ended his career as a professor of Italian at Columbia. As for the Metropolitan Museum, the Museum of Modern Art, the Guggenheim, the Jewish Museum, the Brooklyn Museum, the New York Botanical Gardens, the Brooklyn Academy of Music—I could go on and on—they have few peers anywhere. In the nice phrase used by New York University, private institutions in the public service.

Upstate we are blessed with a string of world-class institutions, including the Buffalo Philharmonic and that City's Albright Knox Art Gallery; Rochester's Philharmonic and Memorial Art Gallery; the Syracuse Symphony Orchestra and Utica's Munson-William-Proctor Institute. Again, I could go on.

The tax legislation of the 1980's resulted in a serious cutback in the amount of private giving to such institutions. In the case of Columbia, NYU, Rochester, Cornell, and Rockefeller University, it stopped tax-exempt borrowing for capital improvements such as laboratories, libraries, infrastructure. The Revenue Act of 1992 repeals the restrictions on bonds and on gifts of appreciated property.

It does more. It restores to these universities their status in law as exempt persons. That is to say, the law recognizes their public purpose, and gives them equal status with State-run institutions. As also with state governments and other government bodies. For research institutions of any kind, this status is indispensable. To have stripped the private institutions of this status, as we did, in 1986, was indefensible. But it was done, and there was little, if any, notice. That fact should put us on notice. The private sector is in jeopardy, if not better understood. It is estimated that the provision will cost $420 million over the next 5 years. I hope and trust it will turn out to be more. There could hardly be a more deserving tax expenditure.

The bill makes permanent the limitations on itemized deductions and personal exemptions that were enacted on a temporary basis in 1990. In effect, this is a permanent increase in the top tax rate of 3 percent for a couple with two children. One percent (0.93 percent) from the limitation on itemized deductions, and about one-half percent for each of four exemptions claimed.

The case can be made that this revenue is needed. But no case can be made for hiding the tax increase in an unfathomable ten-step calculation that only a tax lawyer could love. I read from the IRS instructions for complying with the itemized deductions limitation:

Itemized Deductions Worksheet—Line 26 (keep for your records)

1. Add the amounts on Schedule A, lines 4, 8, 12, 16, 17, 18, 24 and 25 .... 1. _____
2. Add the amounts on Schedule A, lines 4, 11, and 17, plus any gambling losses included on line 25 ..... 2. _____

Itemized Deductions Worksheet—Line 26 (keep for your records)—Continued

Caution: *Be sure your total gambling losses are clearly identified on the dotted line next to line 25.*

3. Subtract line 2 from line 1. (If the result is zero, **STOP HERE;** enter the amount from line 1 above on Schedule A, line 26.) ..... 3. _____
4. Multiply line 3 above by 80% (.80) ..... 4. _____
5. Enter the amount from Form 1040, line 32 ..... 5. _____
6. Enter $100,000 ($50,000 if married filing separately) ..... 6. _____
7. Subtract line 6 from line 5. (If the result is zero or less, **STOP HERE;** enter the amount from line 1 above on Schedule A, line 26.) ..... 7. _____
8. Multiply line 7 above by 3% (.03) ..... 8. _____
9. Compare the amounts on lines 4 and 8 above. Enter the smaller of the two amounts here ..... 9. _____
10. **Total itemized deductions.** Subtract line 9 from line 1. Enter the result here and on Schedule A, line 26 ..... 10. _____

Set at a 3-percent disallowance rate, the effect of the itemized deduction limitation is more or less neutral as between different States with different tax systems and tax burdens. But should the rate begin to climb the point would soon be reached where New York would be unfairly burdened. And charitable giving could well be affected for the worse. I would like to lay down a marker here. No such increase will be enacted if I can help it. And as second ranking member of the Committee on Finance majority, I certainly intend to see to it.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2931

(Purpose: Limiting individuals eligible to use IRA deductions and simplified IRA's)

Mr. METZENBAUM. Mr. President, on behalf of Senator RUDMAN and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. RUDMAN, proposes an amendment numbered 2931.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 875, beginning with line 13, strike through page 876, line 9, and insert:

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$100,000", and

(2) by striking "$25,000" and inserting "$75,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable year beginning after December 31, 1993.

On page 884, strike lines 5 through 9, and insert:

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the applicable dollar amount.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section 219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

AMENDMENT NO. 2934 TO AMENDMENT NO. 2931

(Purpose: First-time homebuyer credit)

Mr. DOLE. Mr. President, I send a second-degree amendment on behalf of Senator PACKWOOD to the desk.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. PACKWOOD, proposes an amendment numbered 2934 to amendment No. 2931.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment add the following:

SEC. 2001A. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) The purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22.

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.—No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) and such disposition occurs at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility period) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1).

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time home-buyer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

SEC. 2001B. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after July 1, 1992.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the two amendments which have just been offered be laid aside for approximately 1 minute in order to take up the agricultural appropriations conference report.

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

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1993—CONFERENCE REPORT

Mr. BUMPERS. Mr. President, I submit a report of the committee of conference on H.R. 5487 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 7, 1992.)

Mr. BUMPERS. Mr. President, I ask unanimous consent that the conference report be agreed to; that the Senate concur, en bloc, with the amendments of the House to the amendments of the Senate; that statements by Senators BUMPERS, COCHRAN, LEAHY, a colloquy between Senators DOLE and COCHRAN, and a colloquy between Senator LEAHY and myself be printed in the RECORD, as if read; and that all the preceding motions be reconsidered, en bloc, and tabled.

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

The amendments of the House to the amendments of the Senate are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$7,250,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$73,411,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$20,795,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$430,143,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$414,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$10,428,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert ": *Provided further*, That, hereafter, funds made available to the Agricultural Cooperative Service shall be available for a field office in Hawaii".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert "$228,266,000, to remain available until expended (7 U.S.C. 2209b)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert: "$313,039,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $9,000,000, to remain available until expended, but not beyond fiscal year 2009: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to establish a guaranteed line of credit program level of $30,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains or cellulosic materials for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract: *Provided further*, That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

In addition, for administrative expenses necessary to carry out the credit guarantee program, $100,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: "That of this amount, $25,000,000 shall be available for water and waste disposal systems to benefit the Colonias along the U.S./Mexico border, including grants pursuant to section 306C: *Provided further*, That, with the exception of the foregoing $25,000,000,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "*Provided further*, That amounts made available under this heading in fiscal year 1992 shall be available in fiscal year 1993".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$6,826,553,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 99 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$2,536,098,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum named in said amendment, insert "$1,661,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert "$509,996,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 730. For loan guarantees authorized under sections 1465–1469 of Public Law 101–624 for the Agricultural Resource Conservation Demonstration Program, $10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974, $3,644,000: *Provided*, That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: *Provided further*, That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 731. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program within the Agricultural Stabilization and Conservation Service for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds transferred by the Commodity Credit Corporation to the Agricultural Stabilization and Conservation Service for such purchases exceeds $52,400,000.

Mr. BUMPERS. Mr. President, I am pleased to bring before the Senate, the conference report on H.R. 5268, the appropriations bill for agriculture, rural development, and related agencies for fiscal year 1993. I hope my colleagues will support it.

The conference report contains several significant changes from the Senate-passed version of the bill. First of all, the conferees were unable to fund the Wetlands Reserve Program due to the tight fiscal constraints. This action by no means indicates a lack of support for this program. I would like to read from the conference report what we said about the Wetlands Reserve Program.

The conferees fully support the concept of the Wetlands Reserve Program and are disappointed that the Department has not provided the reports required by the House, Senate, and conference reports on the fiscal year 1992 Agriculture Appropriations Act. The conferees direct that these reports, along with a complete analysis of the fiscal year 1992 sign-up, be submitted to the appropriate committees of Congress by February 1, 1993. Pending the results of this information, the conferees expect the Department to consider submitting a supplemental appropriations request.

A second major change from the Senate-passed version of the bill is that the Market Promotion Program is funded at a level of $147,734,000 instead of $170,700,000 as proposed by the Senate. Again, due to fiscal constraints, the funding had to be reduced. Again, the conferees have drawn attention to the program and reiterated the Senate's request for a report on the program covering the last 5 years including: First, the number of companies or groups receiving MPP funds for the first time in each fiscal year compared to the number of companies or groups that received MPP funds in at least one of the previous 5 fiscal years; second, the dollar value of the annual export sales of MPP participants and the percentage of the MPP participant's marketing budget represented by MPP funds; third, the number of small business participants in the MPP program; fourth, whether MPP participants would have entered an export market regardless of the availability of MPP funds; fifth, the dollar value of annual export sales directly attributable to MPP funds; and sixth, the number of new applicants for MPP funds, especially small businesses, that were not funded compared to the number of companies or groups that received MPP funds in at least one of the previous 5 fiscal years.

In addition to this Senate language, the conferees added the following:

The Market Promotion Program should focus its resources on promoting value-added agricultural exports to maximize job creation. The Market Promotion Program should make certain that the content of agricultural products it promotes is predominantly U.S. grown and manufactured. Promotion funds should be allotted to U.S.-based participants which export agricultural products and should encourage smaller, medium-sized, and new-to-export participants. The Department is expected to review marketing plans submitted to assure that products are predominantly U.S. grown and manufactured.

The Public Law 480 program has also been changed from the Senate version. Rather than providing $13 million for debt restructuring under the Enterprise for the Americas Initiative, the conference agreement provides $40 million. As a result, the title I program level has been reduced from $581 to $555 million and the title III program level has been reduced from $344 to $334 million.

Domestic food assistance programs remain a high priority in the bill. Based on current estimates of need, child nutrition programs are funded at a level of $758 million above this year and the Food Stamp Program is increased by $4.8 billion over this year's level. The WIC Program is funded as proposed by the House and Senate, at $260 million over the 1992 level. Mr. President, I want to reiterate that almost two-thirds of the bill—64 percent—or $38.4 billion is for domestic food programs that go predominantly to urban areas.

For the Food and Drug Administration, the bill restores the $200 million in funds assumed by the administration through user fees and has added $20 million over the 1992 appropriations for the agency.

The conference agreement provides funding levels similar to the Senate bill for agricultural research, rural development, conservation, extension, and inspection programs.

In summary, the conference bill proposes to spend $60.5 billion.

I commend the conference report to my colleagues and recommend that it be accepted.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, we have before us the conference report on H.R. 5487, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill for fiscal year 1993. This agreement was reached Thursday, August 6, and filed on Friday, August 7. The other body passed it earlier today.

H.R. 5487 makes funds available for the many programs administered by

the Department of Agriculture, such as research and extension, conservation, rural housing and farm loans, and farm income and price support programs.

Total obligational authority in this conference agreement is $60.5 billion, which is $166.6 million more than the budget estimates for new authority for 1993.

A major part of this bill—64 percent of the total amount appropriated—consists of funding for the various domestic food programs administered by the U.S. Department of Agriculture. These include the Food Stamp Program; the child nutrition programs—school lunch and breakfast, summer food programs, and child and adult day care, etc.—; the feeding program for Women, Infants and Children [WIC]; and the Emergency Food Assistance Program. I believe the funding levels provided for these important nutrition programs are justified by the current estimates of need that have been received by the Congress.

Mr. President, I am pleased to report that this conference agreement supports continuation of the existing conservation programs administered by the Soil Conservation Service and the Agricultural Stabilization and Conservation Service. These activities are critical to improving and conserving our soil and water resources.

An important element in the success of agriculture in the United States is the support it has enjoyed from both private and public research. In this agreement, $1.6 billion is directed specifically to research and extension programs. Of this amount, $97.5 million has been provided for the National Research Initiative, a program which has proven successful in attracting high quality research proposals from a broad spectrum of scientists.

This conference agreement places increased emphasis on rural development. Almost one-fourth of the bill total is available for programs that assist rural areas. Specifically, the agreement provides funding for rural water and waste disposal loans and grants, solid waste management grants, emergency community water assistance grants, and low-income housing loans. Many of these programs have been very beneficial and have improved the lives of those who live in our Nation's small towns and rural communities.

Through various programs, the conference agreement also attempts to strengthen U.S. agriculture's potential in world markets. Continued efforts to expand agricultural markets overseas are critical to a healthy domestic farm economy. Reflected in this agreement is continued support of the intermediate and short-term export credit guarantee programs, export credit guarantees to emerging democracies, the Public Law 480 or Food for Peace Program, the Export Enhancement Program, and the Market Promotion Program. In addition, the conferees provided $40 million for Public Law 480 debt restructuring under the Enterprise for the Americas Initiative, EAI. This debt reduction can provide substantial benefits for economic growth and environmental protection in Latin America and the Caribbean.

Funding is provided for the Commodity Futures Trading Commission and for the Department of the Treasury for interest expenses incurred by the Farm Credit System Financial Assistance Corporation, and a limitation is established on the administrative expenses of the Farm Credit Administration.

The committee of conference on H.R. 5487 considered 124 amendments in disagreement between the two Houses. Although the conferees were faced with some major challenges due to the current fiscal conditions that we face, I believe those challenges were met and the differences were resolved to make this an agreement that is fiscally responsible and reflective of agricultural needs.

Mr. President, I urge my colleagues to approve this conference agreement.

Mr. LEAHY. Mr. President, last Thursday the House and Senate conferees on the agricultural appropriations bill decided to provide no funds for the Wetlands Reserve Program in fiscal year 1993. I cannot express how profoundly disappointed and disturbed I feel by this decision of the conferees. Last Tuesday, when the Senate decided to add $54.9 million to the bill, I felt we had saved the program. But the decision of the conferees on Thursday made it a dark day for the environment, and one that I believe the Congress and the agricultural community will come to regret.

I am disappointed for many reasons. The first and primary is because, by approving the conference report before us now, Congress will miss the historic opportunity the wetlands reserve presents us. The program is unique because it brought the farmers and environmentalists together in a way that we had never before achieved. It was one of the programs that offered us the most hope that we could find our way out of the seemingly endless fighting between the two communities.

I am also disturbed because the program is immensely popular. This year was its first, and the program had enough funds to enroll 50,000 acres. Farmers responded by offering to enroll 466,000 acres—10 times the intended amount. We are cutting this program down dead in its tracks. And I just do not understand why.

Some may say—"This is not really a set-back for the program. The Department and farmers can go ahead and act as if they can sign up for the program, and we will just wait until 1994 to provide the moneys." This position ignores the tremendous damage the conferees action will do to the credibility of the program and the farming community's willingness to participate.

My amendment on the Senate floor stopped certain computer purchases at USDA pending USDA's reorganization. If I have a choice between wasteful spending, and investment in our future, my choice is clear. If I have choice between making bureaucrats wait for new computers, and helping farmers help the environment, my choice is clear.

Fortunately the conference did include funding for other critical initiatives such as the Water Quality Incentives Program. This program assists farmers in their efforts to farm in a more environmentally positive fashion.

The conference also included funding for the Organic Standards Certification Program and the Low Input Sustainable Agriculture Program, two of the many environmental initiatives in the 1990 farm bill.

It also included a significant increase in funding for the Rural Water and Sewer Program, which is important to both clean water and economic development in rural areas.

Finally, a number of the environmental initiatives in the farm bill are not dependent on funding decisions. These include reorienting the Conservation Reserve Program from a land retirement program, to focusing on environmentally significant land, and the pesticide recordkeeping requirements.

These permanent changes in the law still stand.

Mr. President, I would like to engage in a colloquy with the manager of the bill, H.R. 5487, that has come from the House.

The report contains language related to the recovery of the administrative costs of the Organic Certification Program.

Am I correct that the conference committee was not directing that the planning costs in 1993 must be recovered when the program becomes operational in 1994, but instead was stating its belief that the administrative costs should be recovered, as is required in the 1990 farm bill?

Mr. BUMPERS. The Senator is correct. The Department must make a determination, consistent with the law, about which costs are properly recoverable and which are not.

Mr. DOLE. Mr. President, I was pleased to see that the agriculture conference report includes funds for the rural development grants add to the Senate bill. One of those grants would provide $400,000 for the North Central Kansas electric cooperative, NCK, to replace equipment destroyed by an inland hurricane on July 8.

Soon after the Senate accepted my floor amendment, the Jewell-Mitchell Cooperative Electric Co. contacted my office with a similar problem. The cooperative has suffered losses of $228,007 as the result of two major storms in

June and July. This co-op faces very serious financial consequences as a result of storm damage, but unfortunately, I received their request too late to be of assistance.

I discussed this situation with the Rural Development Administration, RDA, and they see no problem with allowing both co-ops to be eligible for the $400,000 grant for disaster assistance. It seems only fair to let both co-ops use the funding, since they both face similar difficulties.

Would the Senator from Mississippi foresee any problems with the Jewell-Mitchell co-op using a portion of the funds set aside for the NCK co-op? I would like the Senator's thoughts on this subject, because, as ranking Republican on the subcommittee, he has been of such great assistance in securing the funding for the NCK co-op.

Mr. COCHRAN. I appreciate the Senator from Kansas bringing this to my attention, and I certainly would have no problem with this grant being allocated between the two co-ops in Kansas who have suffered these losses. In fact, I would strongly encourage the RDA to work closely with these co-ops to resolve the problems they have encountered.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as indicated, there will be no further rollcall votes this evening. I assume the distinguished chairman of the committee will want the opportunity to review the amendment just filed before debate and action is taken on that.

I would like at this moment, with the Republican leader present on the floor and the distinguished chairman of the Judiciary Committee present, to make a brief statement about the executive calendar. There are a number of nominations pending on the executive calendar. These are noninations which have been made by the President, have been reviewed by the various committees of jurisdiction of the Senate and are now ready for Senate action.

As majority leader, I have received a large and growing number of telephone calls and letters from people concerned about these nominations and urging actions on these nominations. I have checked with the distinguished Republican leader, and I have checked with the chairman of the Judiciary Committee. I am advised that the nominations are being held up by a Republican Senator.

I just want to make the RECORD clear for all of those who have been calling and writing me about these nominations by the President and insofar as I am concerned, we are prepared to act on these nominations. But we have been prevented from doing so at the request of a Republican Senator.

So I would like now to yield to the distinguished Republican leader, if he wishes to make any comment, and then I know that the distinguished chairman of the Judiciary Committee wants to comment on this matter.

I just want there to be no misunderstanding about this. I personally have no objection to any of these nominees and am prepared to act on them. I am advised that we can proceed with respect to all but three of the persons on the calendar, including the persons listed under the judiciary calendar items 571, 634, 635, 636, and 637, which I believe are the most controversial items.

And so, therefore, I would hope that we could act with respect to as many of these nominations as possible before the Senate recesses tomorrow evening.

Mr. President, I would like to yield to the distinguished Republican leader for any comment he may choose to make if he wishes to do so.

Mr. DOLE. Mr. President, I thank the majority leader. In addition to nominations, there are also a number of treaties, some rather important treaties, that are also being held up because of an objection on this side.

I have notified the Senator who has the objection and asked him to come to the floor. I hope he will come to the floor. I hope that he will be here to make his case.

But I would also suggest, as pointed out by the majority leader, we could now clear all but three of these that have been on the calendar for some time. A number of these involve people who have made changes in their entire life, sold their property, prepared to move to a new station, and who are now being denied that opportunity because of one Senator with one hold. It seems to me that we cannot tolerate that. We are going to have to move forward. If that Senator wishes to discuss these all night and all day tomorrow, and whatever, that certainly is his prerogative and his right.

But there is a problem in the Judiciary Committee, as I am advised by the Senator in question, on getting one of his nominations for the U.S. district attorney on the agenda tomorrow in the Judiciary Committee.

I would just say that nobody is holding that nominee on this side of the aisle, and I understand nobody is holding it on that side of the aisle. But it is hard to explain to the Senator in question why, if that is the case, his nominee is not on the agenda for tomorrow.

So I would be very happy to yield the floor. I know the Senator, the chairman of the Judiciary Committee, is here and will make a statement on that particular nomination.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, I thank the leaders for the opportunity to speak to this.

Quite frankly, we have been working now for 18 months to deal with Senator PRESSLER's nominee as U.S. attorney. And the Judiciary Committee has not held up that nominee. There have been requests from the executive department relating to the need to follow up on a number of things relating to that nominee.

Now, it is true that a supplemental report—which is the fancy language for saying, in the Judiciary Committee, the report we needed to get from the executive branch—came in, I guess it was 12 days ago. It is an inch thick. I have no reason to believe there is anything in that report that suggests this gentleman should not become a U.S. attorney.

But I must tell you, A, the Judiciary Committee has not held him up. B, the Democrats have not held him up. C, nobody, to the best of my knowledge, in the Senate has held hin up. And the fact we have been going out of our way—and I see some of our Republican colleagues on the floor; I think they will tell you. It is fair to say we have done everything in our power to get as many of these judges up as quickly as we can, even some who were relatively controversial.

Now here we are, on the eve of adjourning—as we should and must—for a national convention, and we are trying to pass some of these folks out. As a matter of fact, there are people we held hearings on today. And the problem—I say for the RECORD, and I say to my friend from South Dakota, Mr. PRESSLER, who is listening—is just that this fellow has not been a priority. We got this thing on—do not hold me to Monday; but we got it within the last 12 days, while everybody is trying to work on all the other nominees. There are not but 15 Senators on this floor who have not, understandably, come to the Senator from Delaware and said: It is urgent; my judge must come up; can you follow up on the FBI report; can the staff look at it?

I might add for the RECORD, we would be able to move some of this faster. But we tried to work out, with the help of the ranking member, Senator THURMOND, and myself, having to ask the Justice Department and the White House whether they will allow us more investigators. And they would not allow us to have more investigators to have access to clear these things.

All I am trying to explain is that there is a bit of a gridlock here. And if my friend from South Dakota would reconsider holding everyone up—everyone; not just judicial nominees. There are people in the Department of Justice, Department of Energy, the National Institute of Building Sciences, the Department of Defense, et cetera. There are 30-some people being held up here.

I can assure the Senator that we just have not had the time, the staff, to sit down and read the report. And this is the last thing I will say. We read the report, Mr. President. The investigative staff reads the RECORD. And it usually takes someone between three and five followup telephone calls, in the regular course of business during the day, because it is the only time you can get these people, to follow up on what is said in the report and just to sign off on them.

So I can assure my friend that that is being done, and will be done. But it will not be done by the time the Judiciary Committee meets tomorrow.

Lastly, even if, when the Judiciary Committee meets in executive session, even if we were to favorably report on this U.S. attorney for Senator PRESSLER, under the Senate rules, under committee rules, there are 7 days, I believe it is, 7 working days, before he can be reported to the floor, without unanimous consent, to come to the floor to be voted on.

So, Mr. President, I hope our friend, Senator PRESSLER, will reconsider this. I have spoken to him repeatedly about this. I have—and I think he would be prepared to tell you on the RECORD over the last year and a half, helped him move this nominee through the maze downtown, where there was less than a receptive ear. So I would hope we not do this, and reconsider this.

I thank my colleagues for the opportunity to explain this. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE.

Mr. DOLE. Mr. President, I have notified the Senator from South Dakota, and I hope that he will come to the floor. Otherwise, I hope the majority leader will take care of these nominations. If you want to object, you want to put on a hold, then you had better be here and protect yourself. I have done about all the protecting I care to do in this instance. We have tried to be reasonable, tried to work it out. I do not think that is going to happen.

I understand the frustration of the Senator from South Dakota, but there comes a time when we also have to understand other people may be a bit frustrated. And they may be the people involved and the families involved and the others involved, who may not have asked for these appointments, who may have been recruited for these appointments, and now are being blocked under the rules, which the Senator has the right to do.

So I hope the Senator from South Dakota will come to the Senate floor and give us his explanation.

My view is that we can accommodate the Senator's request, or try to accommodate the Senator's request. And if everything else fails, I would hope the majority leader will put all these nominations en bloc before us. Some of us are prepared to spend all night here, if necessary, to resolve this matter. We should not penalize innocent nominees because someone has a problem, particularly when that problem is being addressed by both sides of the aisle.

So I hope that if the Senator from South Dakota does not appear within the next 5 or 10 minutes, the majority leader will let us proceed to these nominations and get them out of here. People have paid the price for public service. They did not expect all this.

So, Mr. President, I hope that within the next 10 minutes, the majority leader might renew his request.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I want to thank Senator DOLE and Senator BIDEN for their comments on the floor.

I happen to have a U.S. attorney from the State of New Mexico on this list for tonight. There is absolutely no reason that he should be held up. The man is a splendid individual. He has served the public for years, and he anxiously awaits the confirmation that he is the U.S. attorney. He has been acting for months. It is not fair to him.

Tomorrow, there will be reported out by the Judiciary Committee a U.S. attorney of the State of New Mexico. Let me suggest that there is no reason for that to be held up tomorrow by anyone on the floor, in particular with the facts that have been discussed. This gentleman, for reasons that he had nothing to do with, has been held up for a long time. His family has suffered. His business has suffered. I just do not believe we ought to hold him up because somebody feels they have been dealt short shrift.

So I thank those on the floor tonight who talk sense. I will stay here if the leader needs me tonight, in case somebody wants to debate. I will be glad to do that. But the Senator ought to come down here and have to spend some time holding this up, not just by remote control. I think our leader on the Republican side, speaking for most of us, has indicated that, and I commend him.

Now, Mr. President, I am not sure what the order of business is, but I want to make some remarks on a subject that is unrelated specifically to this. I do not want to shut anyone off from this debate.

Is it appropriate for the Senator from New Mexico to speak now as if in morning business?

The PRESIDING OFFICER. The Senator may speak on any subject. The 3-hour Pastore rule has expired.

Mr. DOMENICI. I want to yield the floor, however, because I see the Senator from Wyoming desires to speak.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, it has been a very difficult matter. Indeed, it has.

I was elected to the Senate in 1978, and one of my fine colleagues was Senator PRESSLER from South Dakota, my neighboring State.

I have the highest regard for him. I consider him a friend. I have campaigned with him, I have laughed with him, we have legislated together, we have done things in my role as assistant leader. I worked with him. He has been quite supportive of the administration in most cases. We do not ask a test of purity, but I just say—and I think my colleague is on the floor, and I am pleased that he is, I address the Chair but I know that he is listening intently. I do not know what more our leader, Senator BOB DOLE, could do to accommodate my friend from South Dakota.

Mr. PRESSLER. Will my friend yield for a question?

Mr. SIMPSON. Indeed.

Mr. PRESSLER. What is the Senator from a small State to do when a judicial vacancy in his State lays open after he has submitted the names of all the Democrats, Republicans, Independents, and people who have applied or have been interested? I fight very hard for my small State of South Dakota. I know it. This is the first time in my career I have put a hold on any nomination. I just did it this morning. But what kind of ineptitude—maybe it is my ineptitude—is there in the U.S. Government that we cannot get these appointments moving faster than we have? Today I held them up for, so far, about an hour, I guess, from when they would have moved. But a small State Senator at some point has no choice but to stand up on the floor of the Senate and fight for his small State.

There are only three U.S. Federal judges in my State. Two of them are now working overtime, doing Indian cases over which they have primary jurisdiction. I discussed this matter with the Justice Department last December. I said, "I will take anybody you appoint if you want to appoint this person or that person."

What do I do? Do I just sit silently by and let my State suffer? What is the role? What am I supposed to be doing here as a Senator? Do I pack my bags and sit at home? What is the advice of my colleague?

Mr. SIMPSON. Mr. President, I can talk about a smaller State than the State of South Dakota—the one I represent. I can tell you what this Senator would do. I would try to move through the avenues of comity, courtesy, common sense, and good judgment. I have, and my senior colleague, the Senator from Wyoming, MALCOLM WALLOP, presented a name for Federal district

judge which has not gone anywhere yet. But I have not chosen to come to the floor of the U.S. Senate and place a hold on people that have no possible communication or contact with me in any way, who do not even know me, whose families have been uprooted, whose children have been removed from the schools, and who have been waiting for weeks and months to be processed by the U.S. Senate. That I can express to my friend from South Dakota.

I do not know that will happen with that hope-to-be-judge of Wyoming. But I do know that I will continue to work through the process with it as carefully as I can, knowing that time alone is my greatest enemy.

Mr. PRESSLER. If my friend will yield for a question, I am learning things. I learn new things every day. How long has there been a vacancy in the State of Wyoming?

Mr. SIMPSON. Mr. President, we have a senior judge who was in senior status who died, a very dear and respected man named Ewing T. Kerr. That just recently occurred. And we have another judge on senior status, and it has been many months. I will be glad to furnish that for the RECORD.

Mr. PRESSLER. Will my friend yield further? This was a vacancy that we anticipated, and we gave the necessary information. I did everything I was supposed to do as a Senator. What more do I do? If I do not come to the floor, what would my constituents say?

Mr. SIMPSON. Mr. President, constituents have a way of speaking every 6 years in a manner of clarity which is rather staggering to us all. So I cannot possibly discern that. But I wonder what the constituents would say in my State if, at each occasion, because I very much wanted a person who had been on my staff to be placed in a position within the Federal Government, especially as sensitive as U.S. attorney—I did not know Mr. Kevin Schafer, but I have read the FBI report just this afternoon. It took me an hour and a half. Personally, I cannot share with anyone what is in it, but certainly there is nothing in it, in my mind, that would prevent that man from being appointed as U.S. attorney.

There are certain things that appear there, the disgruntled employee of the Senator from South Dakota who apparently decided to pull the chain on the nominee who is now sitting as acting U.S. attorney in South Dakota. Those allegations then were renewed and reviewed by the FBI, and the Bureau then submitted a supplemental report—its most recent designation, I believe, is July 30—stating that certainly there is nothing to proceed with with regard to any kind of criminal conduct or further activities of the Department of Justice against this person.

I would say that his record—and I can go no further—is certainly one that would allow him to be sitting as U.S. attorney. But for one thing, he has had no experience as a lawyer nor as a trial attorney, and he must have had it now because he is acting attorney, and I hope it is going well. I have no problem with that at all. But that is the fact. And then, not only has the Senator from South Dakota presented the nominee of his choice—and it certainly should be considered, just like the one from the senior Senator from Wyoming [Mr. WALLOP] or the Senator from California [Mr. SEYMOUR] who has one there that he cannot move either, or the Senator from New Mexico, who has been waiting patiently while a man gave up his entire career.

I am just saying that it is time to move forward. So when we move forward, then, if I am not mistaken, I will ask the Senator from South Dakota a question, that there was even a possibility that the man who is sitting as the acting U.S. attorney is now being considered by the Senator from South Dakota as the Federal district judge appointment. Is this correct?

Mr. PRESSLER. No; that is not directly correct. Let me say this: I always seek the advice and wisdom of others in this body. I come from a very small State, and I am amazed at how, on Federal projects, we have to fight doubly hard. I am amazed at how in getting judgeships, still we have to fight twice as hard. Senators from a small State cannot deliver Presidential votes, they cannot deliver large PAC contributions. I do not know if that is the reason. Maybe it is my own shortcoming.

But my concern here is the United States Federal judgeship and why there has not been action on that. That is the point that I am trying to raise. I am not worried. I have not read through the files my friend has read, and I thank him. I have the highest regard for the person he has mentioned and everything I know is of a very positive nature.

I do think that in the Senate I have conducted myself with comity and courtesy—maybe not good judgment, but I have always been available to the Senator from Wyoming to help him on matters that are of importance to him.

I am seeking to somehow make the point that this is a classic example, a judgeship, and that regarding the judgeship in South Dakota there has not been any action and there has not been any reason for it. The person he mentioned is not among those last December who expressed an interest. I sent their names to the Justice Department. But may I ask my friend from Wyoming how long ago it was?

May I ask my friend how long has it been since he submitted his names to the Department of Justice?

Mr. SIMPSON. Mr. President, many months ago, 6, 8. I would be glad to furnish that for the RECORD. I do not recall, but it has been many, many months.

But the Senator from South Dakota has asked me questions about "what do you do when you represent a small State?" I have tried to respond. I am responding myself, and I can only say if I had a gigantic beef with one agency of the Federal Government—maybe it is the Justice Department, or maybe it is the President of the United States—I would not direct my anguish and frustration and concern to 31 people who are on this calendar, who are waiting to be processed, because of a sitting U.S. attorney in a small State.

Mr. PRESSLER. That is not my only reason. This is the first time I have ever placed a hold on nominations in nearly 18 years in the Congress. I sympathize with all of the people who are trying to get through. I want to move them through faster. Let us find out why it takes so long. What is it that takes months and years to move things forward? Who do I talk to? I placed four calls to Boyden Gray. None of them have been returned. I am sure he is a busy man. Where do I go?

Mr. SIMPSON. Mr. President, I wish I could chronicle it for this body, but it would be an exhausting chronicle of how many times I have tried to intervene to help my friend from South Dakota with problems in South Dakota. I have personally, on many occasions, spoken to the Chief of Staff, then John Sununu, to counsel Boyden Gray, to the present Chief of Staff, and to the President of the United States on more than several occasions with regard to requests from the Senator from South Dakota, and each and every time, whatever is accomplished is never enough. It is an insatiable maul of requests that I can no longer meet.

Therefore, I honestly say to my friend from South Dakota, whatever you wish to do, I will be here in a friendly adversary position to prevent you from doing it. And that is my intent, whether it be all night at the old corral, or here, or wherever it would be, high noon, low noon. But we are not going to sit still and watch 31 people dragged down because of some personal obsession with a single person, who I hope will receive whatever Federal position he wants. And I hope that the rest of them will be considered, just like mine are being considered. And I will get a list of all of the people I have requested to be appointed to this administration.

I am known as a personal friend of the President of the United States. I will get my scorecard out, which I think shows that I have recommended 340 people for positions in this administration, and 9 of them have been selected. If I were keeping score day after day after day, there would have been no calendar passed in this body. I do not. We cannot.

Therefore, I say with the greatest respect, whatever the Senator from

South Dakota thinks has to be done, he should do. I will do everything in my power to do a singular thing, and that is move 31 people out of the turnstile here in the dungeon deep, who do not deserve to be there in any sense, under any circumstances, under anybody's sense of good faith and just plain old fairness.

Mr. PRESSLER. If my friend will yield, I say that it is not my intention to deprive 31 people of their jobs. But I do want to raise the issue of the judgeship in Pierre, South Dakota. It is primary Indian jurisdiction, original jurisdiction. I am meeting with the Sioux Indian tribal leaders later this month and again in October. I do not know why we have not been able to have progress on that judgeship, because we began discussing it in December.

It is not the U.S. Attorney that is my principal concern here. It is the U.S. judgeship. I cannot understand why I cannot get my calls returned from Boyden Gray. I cannot get a response as to what is wrong with any of the candidates. Now the judge from Rapid City has to take over the work in Pierre.

This is primarily a court of Indian original jurisdiction where Indian people have matters that would not normally be dealt with by a Federal judge.

Today, when I put this hold on, for the first time this year, I had a call from the Chief of Staff of the White House. That was pretty nice to get a call from Mr. Skinner. He said, "one of those guys is acceptable to us." I think it is a little too late to go forward this year. So I am kind of beaten down.

But I think this leads to the philosophical question of, what does the Senator from a small State do in a situation like this, when he is trying to protect his State? I do not intend to keep this hold on these people. I think this is a good exchange we are having. Maybe I am learning something.

Mr. SIMPSON. Well, Mr. President, I can understand the commitment of the Senator from South Dakota to the native American population. I represent a State that has two tribes, the Arapahos and the Shoshone. So I understand that.

I understand, too, the situation the Senator is in. I understand that. I hope the Senator understands, too, as I have done in the past with great regularity and sincerity, I will take this matter to the highest levels of the administration. I will try very much to go to bat again and again, and again, as I have in the past on this occasion. And that will be the case, regardless of what happens here, whether we have 4 nights and 4 days of vigorous discussion, or whatever it takes before this recess takes place, because I am perfectly willing to be here myself and to have others. Senator DOMENICI has indicated that he is ready to assist. But there are so many nuances and ramifications of this.

If you want to address the Indian issue, then it is my understanding that the former U.S. attorney was an Indian, or of Indian origin, or at least part Indian, and that person was displaced by this appointment. I understand the Indian community was quite incensed by that. So maybe that is in there, too.

Mr. PRESSLER. If my friend will yield, that is not the case. But that is not the purpose of my hold. We are talking about two different things.

Mr. SIMPSON. Is that the case?

Mr. PRESSLER. No.

Mr. SIMPSON. Who was the former U.S. Attorney?

Mr. PRESSLER. Mr. Hogan.

Mr. SIMPSON. Mr. Hogan is part Indian; is that correct?

Mr. PRESSLER. Yes.

Mr. SIMPSON. I understand the native American population was quite disturbed at the fact that Mr. Hogan, a skilled trial attorney who had served and done some very fine work, was replaced by a former staff member of the Senator's office with no previous legal experience, no trial experience, nothing; is that correct?

Mr. PRESSLER. No; that is not correct. The Indian community in South Dakota is very strongly supporting that appointment. In fact, there is currently a dispute going on that demonstrates just the opposite of what my friend has said.

The fact of the matter is that my position on the floor tonight is regarding a U.S. judge. If you wish to talk about the U.S. attorney, fine, but it is a vacancy in the U.S. judgeship in Pierre that has bothered me very much.

Mr. SIMPSON. Mr. President, do I have the floor? I believe that is correct.

The PRESIDING OFFICER (Mr. BRYAN). The Senator retains the floor.

Mr. SIMPSON. Let me retain the floor and yield to my friend from New Mexico.

The PRESIDING OFFICER. Without objection, the Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the Senator from Wyoming and thank Senator PRESSLER. I think the exchange to the extent it helped the Senator, I am very pleased he saw fit to indicate he does not intend to hold the 31 nominees the Senator from Wyoming and Senator DOLE referred to.

I happen to have a U.S. attorney on that list. Tomorrow I hope late in the day I will have a U.S. district judge. I thank the Senator very much.

I frankly believe every U.S. attorney situation is different, I say to Senator PRESSLER. It is not easy to get any of them through. It takes a lot of time, obviously a lot of clearance, and obviously the U.S. Attorneys General and their staff have a lot to do and say about whether the nominee is going to clear or not. I think your principal argument is with them, as I see it.

I cannot tell anyone how to handle that. I had my share of problems. I am going to clear a judge soon. We started to work, you wonder about time, last February or March. He is clearing tomorrow. He got to the Senate about 6 months ago. All remaining time was in negotiating, FBI preliminary reports and those kinds of things. It happens. It is difficult to put in an exact formula or a way to do each one.

I do not know that it is a small State problem. I am a small State. Wyoming is a small State. There are a number of small States. It must be some other peculiarities.

MORATORIUM ON IMPLEMENTATION OF REGULATIONS UNDER THE SAFE DRINKING ACT

Mr. DOMENICI. Mr. President, a while ago I rose to try to get a statement in the RECORD regarding a moratorium I am going to try to have the Senate vote on as part of the HUD appropriation bill. I have a statement explaining what I am going to do. I am going to ask it be made a part of the RECORD in its entirety after I make just a couple remarks, with the Senator from Wyoming's permission, and they will be brief.

Let me indicate that the legislation is going to give the Administrator of the Environmental Protection Agency the authority—during the time of the moratorium—to implement additional regulations that present significant risk to human health. Despite what some may say, this is real authority that I expect the Administrator to exercise. To the extent there is concern that roadblocks make it difficult for him to act, I am prepared to make appropriate changes to ensure prompt action.

In addition, I have repeatedly stated I expect the first regulation that the Administrator would move forward on would be the lead and copper rule. The health risks from lead and copper are well known, particularly for young children. While I believe there is sufficient authority for the Administrator to move forward on this rule, for the sake of insuring that is the case, when I offer Senate bill 2900 as an amendment, it will be altered to pull the lead and copper rule from under the moratorium.

Third, there has been a tremendous amount of misinformation about this bill and thus this amendment. I have listed each one of the criticisms, some from environmental groups, some from others, and I have listed the truth about them. I am hopeful that Senators who have cosponsored this—there are now 20—and those who are thinking about it will read this statement or their staffers will, because I believe we are doing right by all the small communities of the United States, and we are not incurring any risk for small

children and grown adults or senior citizens in its adoption.

Mr. President, I would like to take a few moments of the Senate's time to discuss legislation I introduced on June 26, along with Senators BROWN and NICKLES—S. 2900.

This legislation imposes a moratorium on the implementation of further regulations under the Safe Drinking Water Act until EPA completes an in-depth review of the program, submits recommended changes to the Congress, and the Congress reauthorizes the statute.

Mr. President, serious problems exist with this program. The excessive costs to administer and implement the program are being called into question because many of the contaminants slated to be regulated pose absolutely no risk in drinking water.

This bill has three purposes: First, it provides relief to small water systems who have argued they cannot afford to meet Federal monitoring requirements; second, it is an interim measure that will provide the authorizing Committee time to review the impacts of the Safe Drinking Water Act and consider fundamental changes to the program; and third, it will ensure the continued protection of public health and monitoring for a very large number of contaminants.

Communities all over the country do not understand why they must comply with regulations for contaminants that do not even exist in their water systems, or at levels well below health concerns.

I would like to bring this body up-to-date on several developments on this issue.

First, the National Governors' Association last week adopted a resolution, endorsing the basic tenets of S. 2900.

The Governors' strongly worded statement points out the serious problems with this program. The Governors' recommendations are divided into three components—statutory change, improving program efficiency, and addressing funding shortfalls. I would like to share with this body the recommended statutory changes:

It will not be possible to make the Safe Drinking Water Act work properly without Congressional action. The Governors believe that the following three actions are the minimum necessary:

1. Until the Safe Drinking Water Act is reauthorized, Congress should freeze implementation of the national primary drinking water regulations at the thirty-five rules that states have implemented in full as of July 1992, and place a moratorium on promulgation of new rules. Congress should require that EPA conduct risk assessment studies of the contaminants referenced in and listed pursuant to Safe Drinking Water Act section 1412. Congress should require that EPA promulgate and/or implement national primary drinking water regulations for any contaminants if the risk-assessment studies indicate that regulation is justified by significant risk to public health.

2. Congress should reauthorize the Safe Drinking Water Act as soon as feasible and eliminate rigid provisions that require regulation of specified numbers of contaminants regardless of the risk they present. The law should allow EPA and the States to focus on the most significant risks.

3. If the administrative proposals recommended in items 5 and 6 are not allowed under existing statutory authority, they should be incorporated in the reauthorization of the Safe Drinking Water Act. The goal is to have clean and simple standards and to allow States maximum flexibility in meeting these standards.

Second, in my discussions with other Members, I have indicated my intention to make changes to S. 2900, as introduced. The bill now halts further implementation of regulations beyond the 35 contaminants being regulated at the time the bill was introduced.

However, the legislation gives the Administrator of the Environmental Protection Agency the authority—during the time of the moratorium—to implement additional regulations that present significant risk to human health. Despite what some may say, this is real authority that I expect the Administrator to exercise. To the extent there is concern that roadblocks make it difficult for the Administrator to act, I am prepared to make appropriate changes to ensure prompt action once the Administrator determines regulation is warranted.

In addition, I have repeatedly stated that I expect the first regulation the Administrator would move forward on would be the lead and copper rule. The health risks from lead are well-documented, particularly for young children. While I believe there is sufficient authority for the Administrator to move forward on that rule, for the sake of ensuring that is the case, when I offer S. 2900 as an amendment, it will be changed to pull the lead and copper rule out from under the moratorium.

Third, a tremendous amount of misinformation is being spread around about this bill and the potential impacts of it.

I would like to set the record straight.

The existing standards that would continue under this bill represent the contaminants that pose the greatest risk to public health. One estimate is that these standards will prevent nearly 440 cases of cancer each year. In addition, they include important microbiological and virus protection.

The standards that would be put on hold, by one estimate, prevent only .8 cancer cases per year and health effects arise only after long-term or lifetime exposure. Obviously, because this bill establishes only a temporary moratorium, significant exposure is not realistically expected.

Significant monitoring, beyond the 35 contaminants, would continue during the time of the moratorium. There are 12 methods used to monitor for the 35 standards. Those 12 methods can identify more than 60 contaminants—providing valuable information to the Administrator to support a decision to issue additional regulations in the future.

Regulations in place prior to the cutoff for the moratorium would remain in effect—including those standards regulated under the interim primary drinking water regulations. I believe members have received information stating that these regulations would be stopped under the bill. That is simply not correct and I want that to be understood by everyone.

For example, you have been told that a standard for nitrates would be placed under the moratorium. Nitrates contamination causes blue baby syndrome, a serious, serious health problem. Let me make it perfectly clear, the nitrates standard would continue in effect under this bill. The information you received on this is not correct.

A tremendous amount of information is being circulated about the health hazards of disinfection byproducts, a problem that one study concludes causes 10,700 cases of colon and rectal cancers per year. The existing standard applying to trihalomethanes—one disinfection byproduct—is not affected by the moratorium. In addition, EPA would continue in its current process of studying whether additional regulation is warranted.

Some have expressed concern that with this bill, we are suggesting that different health standards apply to small systems than to large systems. Let me make it clear, while I believe we need to review whether or not we should provide a different regulatory structure for small systems, I have never advocated less health protection for rural areas than for cities.

Finally, there are some who argue that this is simply an issue of providing more money to the States in order to get the job done. Mr. President, I wish it were that easy.

On the one hand, we are hearing from our States because they do not have sufficient resources to administer this program.

On the other hand, we are hearing from water systems around the country who do not have sufficient resources to implement the requirements of the act. It is estimated that the monitoring requirements of the program may cost over $200 per family per year for small systems. When many of these contaminants don't even occur in drinking water, it is inconceivable why we are asking people to spend scarce resources.

Mr. President, the Congress cannot ignore this problem any longer. We must act affirmatively on S. 2900, and move forward in addressing the numerous problems with the Safe Drinking Water Act.

S. 2900 sets up a rational process by which such a review can occur.

ORDER OF PROCEDURE

Mr. DOMENICI. I thank the Senator for giving me time. If he thinks I should remain to help with this matter I will. If not, I will yield the floor and leave at this time.

Mr. PRESSLER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Wyoming retains the floor.

Mr. SIMPSON. I yield for a question to my friend.

Mr. PRESSLER. My friend from Wyoming has said something about a replacement of the U.S. attorney in South Dakota. Let me emphasize my main concern here is a judgeship in South Dakota. The previous U.S. attorney served 10 years. The Justice Department notified me—I did not initiate this—that they wanted to rotate after 2 years or something to that effect. I wanted to make that part of the record.

Let me also say in terms of the Indian communities being incensed, I believe every tribal chief in South Dakota will strongly support this U.S. attorney. I have not heard that this is not true. As far as I know, this attorney is supported by Senator DASCHLE and myself and many others. We are trying to get him confirmed or trying to find out why he is not confirmed or, at least, what is going on.

The real issue is the U.S. judge in Pierre. We have now two judges doing the work of one. I spoke with one judge the other night, Judge Battey. This is a tough thing. I feel responsible.

People in the State asked me, and should, they should kick me in the pants: What is wrong with you? Why do we not have another U.S. judge?

We had a retirement announced well in advance. I went to the Justice Department well in advance. I remember once calling to speak to the Attorney General or someone over there last year. I have done everything I can do.

By putting a hold on for 8 or 10 hours here today I seem to have created a firestorm. There is something wrong in the way we do this. There should be orderly procedure. This is a professional position, U.S. Federal judge. We get good quality people to apply in our State, the best people.

That is where I stand. I am not going to object. But I wanted to say my piece.

Mr. SIMPSON. I plan to assist the Senator from South Dakota in any possible way that I can to achieve his objective, just as I have promised, not just promised but done in the past, and I will continue to do that at every level. It is not my position here to get into the merits of the nominees. Neither should we be checking the merits of 31 people who are disruptive of clearness, who are truly in a sense innocent victims of whatever it is that we do and we do these things.

But am I hearing from the Senator from South Dakota that he is willing to accept my word that I will do everything I can, I mean that, to break this logjam, and hopefully Wyoming judge, too? If he will help me on that one I will help him on this one. There is no quid pro quo, I jest. That is where we are. We do not get the things we want here and certainly I have not. I think I hope that we can go forward and I will make that pledge.

Mr. PRESSLER. Mr. President, I look forward to working with the Senator from Wyoming.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I understand the distinguished Senator from South Dakota no longer objects to considering the nominees. It will be. I first thank the Senator from South Dakota and indicate as the Senator from Wyoming has that we will continue. I hope this Senator has in the past to be of assistance to all of my colleagues on this side, particularly my friend from South Dakota, and I appreciate his sensitivity to this rather important issue, because other Members indicated that they were prepared if necessary to have extended debate on the nominations. That will not now be necessary. For that I thank the distinguished Senator from South Dakota.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 102-325, appoints the following Senators as members of the National Commission on the Cost of Higher Education:

The Senator from New Jersey [Mr. LAUTENBERG], from the Appropriations Committee; and

The Senator from Rhode Island [Mr. PELL], from the Committee on Labor and Human Resources.

The Chair recognizes the majority leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

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

SENATE RESOLUTION 330

Mr. RUDMAN. Mr. President, I rise in strong opposition to Senate Resolution 330, a resolution urging the President to seek Security Council authorization for the use of force in Bosnia-Hercegovina to provide humanitarian relief for civilians, to secure access to the refugee and POW camps, and to place heavy weapons under U.N. supervision.

Like all Americans, Mr. President, I am horrified by the news reports and television pictures coming out of Bosnia and the rest of the former country of Yugoslavia. As terrible as the atrocities and fighting are, however, the decision to commit the U.S. Armed Forces to combat is one that must be undertaken after very hard and realistic thinking about our objectives, the national security interests at stake, the forces we are prepared to commit, and their relationship to the objectives, the sacrifices we are prepared to ask of our servicemen, and the willingness of the American people to support such a commitment.

Regrettably, the pending resolution is not the product of such a careful analysis. Instead, this resolution represents an emotional response, albeit for the best of reasons, to the tragedy unfolding in the Balkans. It states objectives which cannot be met without the massive application of American force, probably for a period of years. That is a commitment I am not now prepared to make, and that I am confident the American people are not prepared to support.

The area encompassing the former nation of Yugoslavia has been racked by tension and conflict for over 1,000 years. The fighting has been between the Slavic people indigenous to the region and the great powers which occupied it for much of the time, as well as among those Slavs who have been, and are, separated by religion and nationality. They fought the Ottoman Empire, the Austro-Hungarian Empire, and each other at the same time. When Nazi Germany invaded in 1942, they fought the Germans even while continuing to fight and kill each other. It is worth noting that the German invasion force consisted of 550,000 men, and over 30 German divisions could not suppress the partisan guerrillas during the 2-year German occupation.

In 1945, guerrilla leader Josip Broz Tito took power and established a Communist government. While Tito was able to suppress the religious and ethnic divisions which had plagued the nation during his 35 years of rule, he faced a new problem following his break with Stalin and the Soviet Union in 1948: He feared a Warsaw Pact invasion. To forestall this, he took two steps. First, he opened a relationship with the United States. Second, and more important under the present circumstances, military service was made mandatory and every household was armed. In short, the Yugoslav Government decided to prepare for a prolonged guerrilla war if necessary to fight Soviet and other Warsaw Pact forces.

That brings us to the present time. We have a bitter conflict bred by centuries of religious, ethnic, and national divisions; Lebanon represents the prime example of how difficult such a conflict is to resolve. We have a geographic area consisting primarily of

heavily wooded mountains. Finally, we have a people who have been trained in the use of arms, and who have the arms to use.

As a result, there are hundreds of thousands of Serbian, Croatian, and Bosnian militiamen fighting in Bosnia. There is another large number of Serbian and Croatian militiamen in Croatia, who continue to fight each other notwithstanding the presence of a 15,000 man U.N. peacekeeping force. Finally, the Serbian-dominated Yugoslav army and more Serbian militiamen remain in reserve in Serbia. The control by the civilian governments of the three countries over these forces varies widely, and, in many cases, is tenuous at best. Atrocities have been committed by all sides, although the Serbians seem to be guilty of more of them.

Senate Resolution 300 proposes to address this tragedy by setting out objectives that cannot, in all probability, be met without the massive application of force. The resolution specifically urges the adoption of a U.N. Security Council resolution authorizing the use of force to ensure the delivery of humanitarian supplies and international access to refugee and POW camps. In addition, the resolution calls on the Security Council to develop the means to implement a cease-fire plan, including placing all heavy weapons in Bosnia under U.N. control.

Let us examine what it will take to meet these objectives. First, it requires the commitment of ground troops. Airpower cannot suppress armed militias and snipers. There are no key command and control facilities to knock out, no critical logistic depots to destroy, and no important lines of communication to interdict. It is also very difficult to hit artillery in mountains from the air. Even if the first attack has some success, the artillery will then be dispersed and dug in, making them more difficult to find and attack thereafter.

Our military experts have estimated that it would take at least two divisions, or 30,000 troops, to secure Sarajevo airport alone. Alternately, there have been discussions about opening a Croatia to Sarajevo road; General Galvin, the former commander of NATO and U.S. forces in Europe, estimated just yesterday that such an effort would take about 70,000 troops.

But, while such a large commitment might secure the airport or the road, it does not protect the soldiers. What happens when these soldiers are attacked? Do we continually expand the allied zone of control in an effort to drive the militias back? How far do we expand our lines—until we have the entire country? What is our response, when the Serbs go to ground and start launching guerrilla or terrorist attacks, as will inevitably occur?

Access to the camps would require an additional commitment of troops and, 150,000 troops later, nothing will have been done to resolve the territorial disputes, the settlement of refugees, and centuries of hatred in the region. As General Galvin stated yesterday: "We could drive down the level of fighting, but it would still be a guerrilla war, and we would have to put a lot of forces in for a long time. We'd have to take casualties. It would cost a lot of money, and it would be unpredictable. It would be like Afghanistan with the tribes fighting each other and us in the middle."

As for gaining control over the heavy weapons, none of the militias will agree to turn over what they have. Moreover, the pending resolution contains seeds which poison whatever minimal chance there was of Serbian cooperation in such an endeavor by raising the prospect of trying Serbians for war crimes and lifting the existing arms embargo for the Bosnians alone. Once again, to meet this objective, it will require the deployment of ground troops, and that means significant casualties.

Where will these ground troops come from? Even if our NATO allies are willing to substantially contribute to this endeavor, and that is doubtful, a large percentage will have to be from the United States. I seriously doubt the American people are willing to support such a massive effort.

Some Members have suggested that demonstrations of force, primarily involving air power, will be enough to make the Serb militias see reason. That, I regret to say, is the worst kind of wishful thinking. It ignores the powerful forces of hatred at work, the tenuous control civilian authorities have over the militias, the fact that those militias control territory they will not voluntarily yield, the nature of the terrain, and hundreds of years of history.

The reality is that a serious and effective effort to bring an end of the fighting and the atrocities will involve a massive deployment of troops to occupy most of Bosnia, parts of Croatia, and possibly all or most of Serbia. It will be a long-term commitment, there will be many casualties, and violent attacks on the occupying force and elsewhere in the world will continue at some level for years. While such a plan might be militarily feasible, I hear no Member suggesting that he or she is willing to incur the resulting costs. And if we level with the American people about what is involved, their answer will be a resounding "No."

Eight years ago, Secretary of Defense Weinberger laid down the conditions he felt had to be met to commit U.S. troops to combat. They included that the "vital" interest of the United States be at stake, that the United States have a "clear intention of winning," that the political and military objectives to be achieved be clearly defined, and that there be reasonable assurance of support by Congress and the American people. None of these conditions have been met to date in this case.

Accordingly, I believe that it is irresponsible for the Senate to urge the United Nations to adopt a course of action which, if followed through on, will inevitably require the commitment of U.S. forces to combat.

Mr. President, in closing, let me state that I appreciate the compassion that led to this resolution, and I recognize the human tragedy now taking place in Bosnia and Croatia. But millions have died from brutal fighting and starvation in many countries throughout the world in the last few decades—Nigeria, Ethiopia, and Cambodia are a few examples—and the United States chose to not intervene because there was no compelling national interest or way to achieve the objective at a cost we were willing to incur. Similarly, there are no calls today to intervene in Somalia, where it is estimated that one-quarter of the people will die in the next 6 months due to fighting between various clans.

As tragic as the situation now is in the former Yugoslavia, it is not significantly different from the others. The American national interest does not justify the costly commitment being proposed by this resolution, and accordingly, I cast my vote against it.

Mr. President, I yield the floor.

CRISIS IN BOSNIA-HERCEGOVINA

Mr. GLENN. Mr. President, like people everywhere, I am horrified by the senseless slaughter and destruction that is taking place in Bosnia. Who cannot be moved by the pictures we see daily of dead and wounded civilians—waiting in line outside a store to buy bread; at a cemetery burying a murdered grandchild? Who is not shocked by the stories coming out with flood of refugees; stories of ethnic cleansing, of death, and mistreatment in camps eerily reminiscent of the Holocaust. What is so chilling about the civilian toll is that these unfortunates are not inadvertently caught in the crossfire; they are the intended targets and victims of a deliberate and horrific campaign to rid greater Serbia of any unwanted inhabitants of the wrong ethnic or religious background.

Seeing these pictures and hearing these stories, many people are calling for the United States to do something—a most natural reaction. I am a veteran of two wars and am wary of any military engagement where the goals are unclear and the means are uncertain. We have to be clear about what we are, and are not, willing to do in Bosnia.

I think the resolution recommended by the Senate Foreign Relations Committee last week, outlines a specific, measured course of intervention aimed

at protecting the aid pipeline. The resolution anticipates a multilateral effort under U.N. auspices. Further, the resolution does not authorize anything. Rather it urges the President to do exactly what he is doing—seeking a U.N. consensus on appropriate multilateral actions to be taken in response to the crisis in Bosnia. When and if, with U.S. leadership, such a consensus is reached, the President will come back to the Congress and to the American people to explain what the goals of the U.N. action will be and what role the United States will play in that operation.

Undeniably, ensuring the delivery of humanitarian supplies to the people of the beleaguered Bosnian nation will not be a risk-free operation. And if we make such a commitment, we must be prepared to follow through—we cannot bluff. The United States, of course, enjoys a veto over any Security Council action. Therefore, we can rest assured that any action by the Security Council will have to be satisfactory to the U.S. Government.

On the other hand, I believe we should be very careful when talking about bringing peace to Bosnia through military force. Inserting ourselves into an ongoing war driven by ethnic animosity that is centuries old would require a major U.S. force commitment of indeterminable duration, with the very real probability of casualties. I am not at all sure the American people, outraged as they are about the atrocities occurring in Bosnia, are prepared to make that kind of commitment.

Nevertheless, expressing caution about one end of the spectrum of possible U.S. intervention—militarily imposing peace on the region—does not mean we should throw up our hands and conclude that we can do nothing about this continuing tragedy but wring our hands. I believe there is a middle ground. I believe the President is pursuing this middle ground in the United Nations; I believe this resolution, a bipartisan resolution, brings the executive and the legislative branches together in this pursuit.

BOSNIA-HERCEGOVINA

Mr. RIEGLE. Mr. President, I rise today in support of Senate Resolution 330, a sense-of-the-Senate resolution urging the President to call an emergency meeting of the U.N. Security Council in order to accomplish two specific objectives.

First, the resolution urges the President to seek U.N. Security Council authorization of all necessary means, including multilateral military force, to provide humanitarian relief to the civilians in Bosnia-Hercegovina. Second, the resolution states that the question of how to ensure access of United Nations and International Red Cross personnel to refugee and prisoner of war camps in the former Yugoslavia should be discussed.

Mr. President, the Senate is considering this resolution today not because we are trigger-happy and seek to involve this country in a very difficult conflict overseas.

We are considering this resolution today simply because President Bush has failed to provide the necessary leadership on this issue.

For months, war has been raging in Bosnia, and the administration has been unwilling to take American policy beyond an ineffective economic and diplomatic embargo of Serbia. Torture and executions of civilians in Bosnia are only tragic examples of what can happen when the leader of the free world acts too late and too timidly in the face of aggression and murderous campaigns of ethnic cleansing.

The American people, who, for the first time last week saw pictures of internment camp victims, are asking why our Government is so late in calling attention to, and demanding a halt, to these atrocities, particularly when we responded so dramatically to aggression in Kuwait.

Why, they ask, were we willing to spend billions of taxpayers dollars to liberate Kuwait, but when it comes to taking meaningful steps to provide relief to the citizens of Bosnia who are being slaughtered, the administration requires evidence of Nazi-style death camps before deciding to act.

What did the President think would occur when Serbian armies in Bosnia began pursuing policies of ethnic cleansing?

With reports that Serbia is engaged in its own final solution against non-Serbs and those Serbs who disagree with the present policy, no further delay can be justified; no more excuses can be tolerated. We ignored Hitler's genocide against 6 million Jews, and we must not make the same mistake again.

After earlier criticizing as reckless Bill Clinton's support for the use of force, if needed, President Bush has finally decided that force may be necessary to ensure the delivery of humanitarian aid. In addition, the administration has now decided to extend full diplomatic recognition to Bosnia-Hercegovina, Croatia, and Slovenia.

While these steps are welcome, the American people are asking where our President, who prides himself on his foreign policy expertise, has been for the last month, 5 months, or 10 months while this brutal war raged on?

Standing silent in the face of the kind of human suffering we are witnessing in Bosnia is not what the new world order is supposed to be all about.

Mr. President, the United States, in concert with our allies, must wait no longer to respond to the atrocities occurring there and throughout the former Yugoslavia.

The resolution now before the Senate, which urges the United States seek United Nations authorization for all necessary means to implement U.N. Security Council resolutions, represents an important response to the situation in the Balkans.

The actions proposed by this resolution are not reckless, but responsible. What is reckless is the administration's failure to act up to now, and its apparent inability to understand the facts.

First, this is not simply a civil war, but a situation where independent and sovereign states are being brutally invaded.

Second, while atrocities are occurring on all sides, it is clear that the aggressor is Serbia, armed with guns and ammunition supplied by Belgrade.

And, third, the United States does have strategic interests which require that we not turn our backs on this crisis. The risks of doing so are spelled out in an article entitled "It is bad policy to neglect the Balkans" by Daniel Nelson, which appeared in the June 25, 1991 edition of the San Francisco Chronicle. I ask unanimous consent that that article be printed in full at the conclusion of my remarks.

Mr. President, U.S. policy concerning the former Yugoslavia has been woefully inadequate. The economic and diplomatic embargo of Serbia has not been effective in stopping Serbian aggression against Bosnian civilians, and past expressions of American condemnation have been dismissed as pure rhetoric.

Adoption of the resolution before us today will demonstrate our resolve to address the crisis in Yugoslavia in a serious manner, and I strongly urge my colleagues to give it their support.

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

[From the San Francisco Chronicle, June 25, 1991]

IT IS BAD POLICY TO NEGLECT THE BALKANS

(By Daniel Nelson)

Mention the Balkans and you inspire visions of backwardness, corruption, Count Dracula and the Orient Express.

But behind these images is political reality—that Balkan discontents repeatedly have fueled European crises. In the 1990s, this Balkan imbroglio may again spill over to affect states from the Atlantic to the Urals, and the West seems not to care.

What is it that makes this peninsula between the Black, Adriatic, Aegean and Mediterranean seas so volatile?

Ethno-nationalism, a symbiosis between ethnic identity and intolerant chauvinism, is a key propellant. Soviet occupation, the weight of Communist bureaucracy and secret police repressed, but never ameliorated these visceral emotions.

The wrenching shift from centrally planned to market economics has raised the ante. For Romania, Bulgaria and Albania, the Stalinist model prevailed more completely than even in the U.S.S.R., and changes now are abrupt and costly. Yugo-

slavia's economic halfway house led to unimaginable corruption by the party elite.

But why should we care? In the 1990s, the Balkans have regained autonomy but with little assurance of peace or prosperity. Today the region is fertile ground for demands fanned by nationalist rhetoric.

During the 1980s, moreover, Albanians and Turks were the continent's fastest growing ethnic groups. The Balkans are also far poorer than the rest of Europe. As the European Community grapples with the issue of mass migration, a surge of Balkan peoples toward economic opportunity causes Western Europe great anxiety.

Finally, we ought not forget that the furtherance of democractic values and institutions will nowhere be tested more vigorously than in southeastern Europe. Here democracy's re-birth will be slow and painful.

This reading is one that ought to turn Western heads. The poorest and demographically fastest-growing part of Europe is, simultaneously, where democratic development is most challenged by volatility. To most, this spells trouble.

Indeed, the case with Yugoslavia suggests that domestic unrest could, in short order, spread throughout the region. Unless we foolishly assume that we can insulate the rest of Europe from desultory politics of the Balkans, there is no way to make European security immume from these afflictions.

A notion of a Europe whole and free and the ideals of the Charter of Paris cease to be universal if the West chooses to defend them selectively. If we accept that the Balkans can be left to endure new traumas without our concern, then new European walls will be erected.

The Balkans are not without hope. Turning the corner from a rigidly constrained political sphere provides new strength from below. Leaders and their policies are today matters of public discourse, and it would be impossible to again repress this.

But absent substantial Western commitments to the Balkans' development and security, the Balkans will once again be the Achilles heel of European peace. What can we do?

Secretary of State James Baker's June 18 speech in Berlin offered small-scale, technical aid proposals and vague institutional ties. Instead, tangible economic measures ought to be foremost—debt swaps, debt foregiveness, and additional multilateral loans from the European Bank for Reconstruction and Development. Heightened political and security assistance can be provided by institutionalizing the role of Conference on Security and Cooperation in Europe in all domains.

But specific proposals are less critical at this jucture than Western engagement. The Balkans can become an open wound from which European and U.S. interests will suffer. Balkan neglect is bad policy.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $3,999,397,071,325.80, as of the close of business on Friday, August 7, 1992.

On a per capita basis, every man, woman, and child owes $15,570.40—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

RELEASE OF SENATE SPECIAL COMMITTEE ON AGING'S REPORT ON THE AFFORDABILITY AND ACCESSIBILITY OF PRESCRIPTION DRUGS

Mr. COHEN. Mr. President, today I am joining Senator PRYOR, the Chairman of the Senate Special Committee on Aging, in releasing a report which once again dramatically illustrates the huge difficulties that senior citizens across this Nation are having in meeting the costs of their prescription drugs.

For millions of older Americans, taking prescription drugs can mean the difference between life or death. Unfortunately, however, far too many older Americans are unable to afford the drugs they need to sustain life, or to avoid hospitalization, because the price of prescription drugs has skyrocketed over the past decade.

As this report illustrates, far too often senior citizens are left on their own to pay prescription drug prices, which have soared beyond their reach.

Unlike hospital or physician services, there is little public—or affordable private—coverage for prescription drugs. While Medicaid does provide some prescription drug coverage for very low-income Americans, millions more low-income older Americans are exposed to potentially catastrophic prescription drug costs. In addition, Medicare does not cover out patient prescription drugs, and Medigap insurance policies generally offer inadequate prescription drug coverage.

The consequence of all this is to leave millions of older Americans living on fixed incomes at the mercy of exorbitant, unrelenting increases in prescription drug prices.

I want to share with my colleagues a few of the real-life stories behind the statistics.

A 79-year-old woman from Lisbon Falls, ME, testified earlier this year at an Aging Committee field hearing that the $200 per month she and her husband spend on medications takes a major chunk out of their limited income from Social Security. Because of high prescription drug bills, they depend on neighbors and friends to pay for food and heating.

A man from Presque Isle, ME, wrote me to say that his drug costs reach about $3,000 every 90 days. While he has some prescription drug coverage, the price of these drugs has more than doubled over the past decade.

A widow from central Maine wrote:

> I am living on a fixed income and wonder each month what food I can cut to pay for my prescriptions.

A senior citizen from Lubec wrote:

> There are people who don't get their prescriptions filled because they don't have the money. Those who do take only half their prescription and make do, because they cannot afford them.

I could go on and on, but it is clear from these comments that the problem of escalating prescription drug prices is far-reaching and so severe that people across the country are forced to make life or death decisions on whether to eat, keep warm, or take their medicine.

While our senior citizens are scrimping and reaching deeper into their pockets to pay for their prescriptions, the pharmaceutical companies are hitting the American public with a one-two punch: they are reaping the benefits of excessive tax subsidies with one hand and continuing to raise the price of their products with the other.

The annual profit margin of the drug industry is more than three times the profit margin of the average Fortune 500 company. Prescription drug price increases have tripled the rate of general inflation since 1980. While there is nothing wrong with profits, they should not be collected at the expense of the most vulnerable in our society.

Some major drug companies would have us believe that the way to make prescription drugs more available to seniors is through more insurance coverage or through a Medicare outpatient drug benefit. Mr. President, unless we take steps to curb excessive price increases, these solutions simply shift the cost of inflated drug prices to other payors, and do not address the underlying problem of massive increases in the cost of prescription drugs themselves. In my view, cost containment must come first—or at least hand-in-hand with—more coverage for prescription drugs.

Some drug companies also point to their own indigent drug problems which provide drugs free of charge to poor Americans as a means of improving access to prescription drugs. As the report we are releasing today illustrates, these programs are commendable efforts, but they are by no means a substitute for curbing high drug prices. Some drug programs exclude large segments of indigent patients, have cumbersome distribution procedures, and are not widely used by doctors whose patients could qualify for the programs.

While the pharmaceutical industry has taken steps in recent months to promote their indigent drug programs

more extensively, these programs are still not a substitute for more affordable drug prices.

The report we are releasing today makes several recommendations on how physicians, patients, and pharmacists can make better use of these drug programs, and I hope it will be useful to physicians, patients, and agencies which serve elderly and low-income Americans.

Mr. President, in closing, I want to state that the drug companies should not be expected to give their drugs away free, nor should they be castigated for making reasonable profits. Gouging a public which is dependent on prescription drugs is, however, outrageous and should not be tolerated.

TRIBUTE TO MAJ. GEN. CHARLES A. HINES

Mr. HEFLIN. Mr. President, I want to take this opportunity to salute Maj. Gen. Charles A. Hines who, as of August 31, 1992, will retire from the Army after 38 years of continuous service. General Hines will be retiring from his post as the Commanding General of Fort McClellan Army Base, near Anniston, AL. It was General Hines' consummate professionalism that helped rescue Fort McClellan from closure last year.

General Hines has held a wide variety of important command and staff positions during his military tenure. He has worked in the Army as the Director of Manpower for the Office of the Deputy Chief of Staff for Personnel. His assignments have also included a role as Strategic Research Analyst and Director of Evaluation and Organization Effectiveness for the U.S. Army War College. He was Commander of the 14th Military Police Brigade of U.S. Army in Europe. In July 1989, General Hines took over at Fort McClellan, becoming the first black commanding general of a major military installation in the South.

Soon after the general took over the position, he was told that the base had been selected for closure. Luckily, the base closure process was revamped and the base was spared. But the base was again slated for closure in April of last year. The base again escaped closure as the Base Realignment and Closure Commission caused it to remain open. While he had to act within restraints imposed by the Department of Defense, his advice and leadership, exercised in a superb professional manner, proved to be of enormous value.

With base closure behind him, General Hines shrewdly began concentrating on finding additional missions for the post. His efforts paid off when the 11th Chemical Company moved its operations there last December. The 209th Military Police Company is also relocating to Fort McClellan. Other Federal and State agencies have used the post facilities for many types of training. The Alabama Army National Guard has more personnel training at the base now than at any time in the past 25 years. The Departments of Defense and the Army have begun investing more resources in the fort's future. Millions of dollars have been released or earmarked to augment current training or to initiate new programs. These projects are due in no small part to the general's expert leadership.

One need look no further than General Hines' impressive list of awards and decorations to realize just how important his service has proven over the years. He has received the Legion of Merit three times, the Bronze Star Medal and the Meritorious Service Medal six times each, and the Army Commendation Medal twice.

The general's energies have not all been spent on military matters. He was personally involved in a number of programs designed to encourage and motivate young people. He tutored grade school children, invited others to the fort for a tour and a visit to his office, and challenged boys and girls in foster care programs and local chapters of national organizations to work diligently as they sought to reach their goals. He presently serves as an advisor to the President's Committee on Employment of People With Disabilities.

Members of the business community of Anniston and Calhoun county have said that none of Fort McClellan's previous commanding generals has ever received or deserved more respect or admiration than Chuck Hines. According to Gerald Powell, chairman of the Military Affairs Committee of the Calhoun County Chamber of Commerce:

> It would be difficult, if not impossible, to find anyone in the area who would say that he did not do an outstanding job at Fort McClellan. His personality and commitment merged in excellent fashion with the local leadership, and he seemed to have as much concern for the welfare of the community as he did for the fort itself.

Another prominent leader of the business community, Mike Claborne, executive director of the Chamber of Commerce, says that General Hines' "professional conduct and caring attitude endeared him to the people of this area during his command at Fort McClellan. It is easy to understand why he has been so successful in his military career and in life. Few people have the combination of integrity, intelligence, charisma, and concern for others possessed by this unique man."

Mr. President, General Hines' service at Fort McClellan has indeed been invaluable and will be sorely missed. He can be justly proud of his career of service to the United States military. He has excelled in every one of his many diverse assignments in the Army. The tenacity and fortitude with which he has tackled every one of his jobs can be an example to every young soldier just entering the service of how hard work does have its rewards.

I proudly commend and congratulate General Hines on his long career of exemplary military service, and wish him and his entire family all the best as they return to Washington, DC, his hometown. The Smithsonian Institution, where he will direct the Protection Services upon his arrival in the Capital, will have yet another living treasure with the addition of General Hines.

TRIBUTE TO JAMES QUINNON STANPHILL

Mr. HEFLIN. Mr. President, on August 4, a dear friend of mine and of the north Alabama community which he called home died. James Quinnon Stanphill was a long-time resident of the Quad Cities area, made up of Sheffield, Florence, Tuscumbia, and Muscle Shoals.

James Stanphill was the owner of Alabama Oil Co., located in Sheffield. He was a past member of the Shoals Community College Foundation board of directors and a founding director and chairman of the board of First Metro Bank in Muscle Shoals. Upon learning of James' death, First Metro's president, Billy Bowling, remarked that its founder was one of the most dedicated men he had ever known.

In addition, James was a member of the Northwest Junior College Foundation Board; a member of the American Association of Retired Persons Alabama Legislative Committee; a past director of the Muscle Shoals Chamber of Commerce; a member of the Salvation Army Advisory Board; and past president of the Alabama Oil Marketers Association. This impeccable community and State leader was also a World War II veteran.

James Stanphill was a person who inspired others by his strong sense of values and of serving others. He was a good friend to many and was highly respected. Like the many others who were fortunate to have known Jim, things that always impressed me about him were his insight into what was going on in the community and his high standards of moral value.

Jim had a keen sense of humor and a contagious laugh. He would play practical jokes on his friends, and frequently they rejoined him in kind. He was affectionately and jokingly called "the Oil Sheik" on occasion. Sometimes his friends would get mad at each other, but Jim had the ability to bring about harmony and reconciliation. He was a wonderful person to eat a meal with. His thought-provoking and humorous conversation was more than a dessert.

I extend my sincere condolences to James' wife, Marvaline, and their entire family. He will be sorely missed by all who knew him.

TRIBUTE TO LENA LANDEGGER

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the memory of Mrs. Lena Landegger, who died on July 25. This esteemed businesswoman, philanthropist, and community leader resided in New York, but also maintained a home in my home State where she presided over the operations of the family business, Parsons & Whittemore. Under the leadership of Mrs. Landegger and her late husband, Karl Landegger, Parsons & Whittemore became the world's largest nonintegrated producer and seller of market paper pulp.

Mrs. Landegger was born in Moscow, Russia, in 1908, and came to the United States in 1940 after living with her husband, a manufacturer of pulp and paper and pulp- and papermaking machinery, in Austria and Great Britain.

In America, the Landeggers established the parent firm that opened the Alabama River Pulp Co. in 1979 and Alabama Pine Pulp Co. in 1991. Alabama River Newsprint Co., which began as a joint project with Abitibi-Price of Canada, started operation in 1990. In tribute to Mrs. Landegger upon her death, all three pulp mills shut down operations for 1 day.

Mrs. Landegger's activities and achievements stretched far beyond the business arena. As the president of the Landegger Charitable Foundation, she supervised the organization's educational and rehabilitational works around the world. Her view was that sound education is the best preparation for the challenges of life. In Alabama, she was active in the development of the Writing to Read Program. Additionally, she took great interest in the adult literacy program and the construction of Our Place teen center.

In 1987, Georgetown University awarded Mrs. Landegger an honorary doctoral degree, the accompanying citation of which read, in part:

> Lena Landegger is a woman who has lived the type of life about which novels are written. It is a life full of joy and grief, of participation in great successes and being subject to great reverses. Through it all her inner strength and outer peace have enabled her to achieve the primary goal around which her whole life has been built. Mrs. Landegger's internal strength and the confidence she brought to her husband and her family contributed in large measure to the success achieved in the United States * * *.

Mr. President, I stand with Lena Landegger's many friends in sending my sincere condolences to her family. She led an extraordinary life, and was a true citizen of the world.

EFFORTS OF UNITED CHURCH OF CHRIST AND NATIONAL COUNCIL OF CHURCHES OF CHRIST

Mr. LIEBERMAN. Mr. President, I rise today to acknowledge the tireless efforts of the United Church of Christ and the National Council of the Churches of Christ in working to end the carnage and bloodshed in Bosnia-Herzegovina. Since the world learned of the concentration camps run by the Serbian Army last week, and indeed, throughout this terrible civil war, the United Church of Christ and the National Council of the Churches of Christ have been striving to offer relief services and humanitarian aid to victims and refugees of this war while concomitantly seeking a political solution to this crisis.

As we in Congress work to shape Government policy and force Serbian leader to desist their practice of ethnic cleansing and war on civilians, we must also remember the essential role of charities and private relief efforts in helping bring justice to this beleaguered part of the world. Mr. President, on behalf of the Senate I would like to thank the United Church of Christ and the National Council of the Churches of Christ for their efforts, and encourage their continued dedication to bringing a lasting peace to the Balkans.

TRIBUTE TO ARKANSAS' OLYMPIC ATHLETES

Mr. PRYOR. Mr. President, I rise today to recognize the efforts of nine Olympic athletes close to the hearts of all Arkansans.

The entire world marveled at the skills of Hamburg native Scottie Pippen, who as part of the Dream Team, set new standards for excellence in men's basketball.

Fayeteville resident Mike Conley added to an already brilliant track and field career by capturing the gold in the men's triple jump.

Equally inspiring as these gold-medal performances was the courage of 800 meters runner Julie Jenkins. Mrs. Jenkins' ability to come back from a 1991 accident and compete in Barcelona, is a shining example of the Olympic spirit.

In addition to Mike Conley, the University of Arkansas' successful track program could boast ties to six other athletes, representing four different nations. Reuben Reina, Frank O'Mara, Paul Donovan, Graham Hood, Edrick Floreal, and Brian Wellman are to be congratulated for their efforts.

I know I speak for everyone across our State, when I commend these individuals for their dedication to excellence and adherence to the ideals of the Olympic games.

THE FAMILY AND MEDICAL LEAVE ACT

Mr. KERREY. Mr. President, I am proud to rise today in support of the conference report on the Family and Medical Leave legislation passed by the Senate today. I was a cosponsor of this legislation and am pleased to see it move a step closer to law. I urge the President to sign the bill to make a long overdue and much-needed change for American families.

America's families are presented with a number of difficult challenges today. Over the past several decades there have been vast changes in our economy and the way American families must respond to those changes. It has become increasingly difficult for families to provide economic opportunities to their children. Today, at least half of all mothers with children under the age of 1 work outside the home, two-thirds of mothers with children under 3 work outside the home. Yet, should a child become seriously ill, parents risk losing their jobs and jeopardizing the family's income if they take leave to care for their child.

Similarly, on the other end of the age spectrum our Nation is changing. Americans are living longer and with more chronic disabilities and illnesses. Changing demographics squeezes the working Americans between caring for their children, maintaining a job, and caring for aging parents. At least 7 million Americans provide informal care to the elderly today. The majority of these caregivers are women. With no comprehensive long-term care policy in this country and nursing home costs that average at least $30,000 a year, we must do what we can to support these caregivers in their efforts.

The Family and Medical Leave Act does this. It provides much-needed support and assistance to hard-working Americans as they attempt to meet the needs and demands of their jobs and their families.

Mr. President, we owe it to the families of America to provide them the assistance they need to balance the demands of work and family, promote economic security and stability of families, and allow workers to take reasonable leave without the fear of losing their jobs.

THOMAS PAINE MEMORIAL—SENATE CONCURRENT RESOLUTION 110

Mr. SYMMS. Mr. President, I rise today to ask unanimous consent that my friend and colleague Senator GRAMM of Texas be added to our 73 colleagues as a cosponsor of Senate Concurrent Resolution 110, the Thomas Paine Memorial.

Seventy-four Senators have joined more than 125 members, professors, department chairs, and presidents of colleges, universities, and organizations throughout our Nation.

Additionally, I ask unanimous consent that the current list of endorsing entities be included in the RECORD, followed by the names of each of the Senators who are now cosponsors of this legislation to allow the private sector

to honor, on the Capitol Grounds of our Nation, the patriot who first called for separation from England, the abolition of slavery and a written constitution to protect the civil, religious and property rights of men and women of all races.

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

ENTITIES WITH MEMBERS, PROFESSORS, CHAIRS OR PRESIDENTS ENDORSING S. CON. RES. 110—THE THOMAS PAINE MEMORIAL, AUGUST 10, 1992

AFL-CIO, National Headquarters—Washington, D.C.
American Antiquarian Society—Worcester, MA.
American Historical Association—Washington, D.C. (President-Elect Tilly).
The American University—Washington, D.C.
Amherst College—Amherst, MA (Dr. Henry Steele Commager).
Arizona State University—Tempe, AZ (B.R. Burg and The Historian).
Arizona, University of—Tucson, AZ.
Arkansas State University—Jonesboro, AR.
Bates College—Lewiston, ME.
Bellarmine College—Louisville, KY.
Brown University—Providence, RI (Gordon Wood).
Boise State University—Boise, ID.
Buffalo, University of—Buffalo, NY.
Brigham Young University—Provo, UT.
California at Los Angeles, University of—L.A., CA (J. Appleby, Pres O.A.H.).
Canadian Philosophical Association (President Marcil-Lacoste/Montreal U.).
Case Western Reserve University—Cleveland, OH.
Centre College—Danville, KY (Dr. C.R. Lee, Matton Prof.).
Charleston, University of—Charleston, WV.
Chicago, University of—Chicago, IL.
Cincinnati, University of—Cincinnati, OH.
City University of New York—New York, NY (Arthur Schlesinger).
Colgate University—Hamilton, NY.
Columbia University—New York, NY (Eric Foner, Pres-Elect O.A.H.).
Columbia University, City of New York—New York, NY.
Connecticut, University of (State Historian, Dr. Christopher Collier).
Cornell University—Ithaca, NY.
Democracy, College of—Arlington, VA.
Democrats of King County—King County, WA.
Drew University—Madison, NJ (President, Gov. Thomas Kean).
Eastern Kentucky University—Richmond, KY.
Emory University—Atlanta, GA.
First Unitarian Church of Cleveland—Shaker Heights, OH.
Fordham University—Bronx, NY.
Genesco, State University of New York—Genesco, NY.
George Mason University—Fairfax, VA.
George Washington, The Papers of—Charlottesville, VA.
George Washington University—Washington, D.C.
Georgetown College—Georgetown, KY.
Governor, State of New York—Albany, NY.
Governor, State of New Jersey—(The Hon. Thomas Kean).
Harvard University—Cambridge, MA (Dr. Bernard Bailyn, for himself).
Hawaii at Manoa, University of—Honolulu, HI.
Houston, University of—Houston, TX (President James Pickering).
Hunter College—New York, NY.
Hoover Institution—Stanford, California.
Illinois, University of, at Urbana-Champaign—Urbana, IL.
Indiana Historical Society—Indianapolis, IN.
Irish National Caucus—Washington, D.C.
James Madison Encyclopedia—(Prof Emeritus U.VA, Robert Rutland).
Kansas, University of—Lawrence, KS.
Kentucky, University of—Lexington, KY (Thomas Clark—KY Historian Laureate).
Kentucky, University of—Lexington, KY (History Department—Chair et.al).
Kentucky, University of—Lexington, KY (Political Science—Acting Chair).
Kentucky Historical Society—Frankfort, KY.
Kentucky, Wesleyan University—Owensboro, KY.
London, University of—London, England (Claeys-Wash U. St. Louis) 2x.
Lander College—Greenwood, SC (Dr. J. Wilson—Co-Author, Thomas Paine).
Louisville, University of—Louisville, KY.
Maine, University of—Orono, ME (Chair, J. Nadelhaft).
Marquette University—Milwaukee, WI.
Marshall University—Huntington, WV.
Maryland at College Park, University of—Coll. Pk., MD (Depts: History, Gov't-Pol).
Maryland State Archives—Annapolis, MD.
Mary Washington College—Fredericksburg, VA.
Massachusetts Institute of Technology—Cambridge, MA (Pauline Maier).
Memphis State University—Memphis, TN.
Miami University—Oxford, OH.
Murray State University—Murray, KY.
New Jersey Archives, State of—Trenton, NJ.
New Jersey, State Legislature.
New Rochelle, City of—City Historian.
New Rochelle, College of—New Rochelle, NY.
New School for Social Research—New York, NY (Louise Tilly).
New York, City University of—New York, NY (David Hawke, Author: Paine).
Notre Dame, University of—Notre Dame, IN (chair).
Oregon Historical Society—Portland, OR.
Oregon, University of—Eugene, OR.
Pace University—Pace Plaza, NY.
Patterson School of Diplomacy, U.K.—Lexington, KY (director, a.d.).
Penn State University—University Park, PA (head et. al).
Penn State University, Presidential Performance—Reading, PA.
Pennsylvania, University of—Philadelphia, PA.
Pepperdine University—Malibu, CA (entire department).
Phi Alpha Theta—History Honor Society (Dr. D. Baird—Pepperdine).
Pittsburgh, University of—Pittsburgh, PA.
Pittsburgh at Johnstown, University of—Johnstown, PA.
President of the Organization of American Historians (Joyce Appleby).
Princeton University—Princeton, NJ.
Rhode Island College—Providence, RI (Dean of Arts and Sciences).
Rhode Island, University of—Kingston, RI.
Richmond, University or—Richmond, VA.
Rochester, University of—Rochester, NY.
Rue Royal Inn—New Orleans, LA.
Rutgers University of—New Brunswick, NJ.
San Diego Mesa College—San Diego, CA.
Scranton, University of—Scranton, PA.
Southbury, CT—James A. Rousmaniere, Selectman.
St. Francis College—Ebensburg, PA.
Stanford University—Stanford, CA.
Syracuse University—Syracuse, NY.
Tennessee, University of—Chattanooga, TN.
Thomas Paine National Historical Association—New Rochelle, NY.
Thomas Paine Society—West Sussex, England.
Transylvania University of—Lexington, KY.
United States Capitol Historical Society—Washington, DC (Hon. F. Schwengel).
Utah State University of—Logan, UT.
Utah, University of—Salt Lake City, UT.
Vassar College—Poughkeepsie, NY.
Virginia, University of—Charlottesville, VA (Corcoran Dept. History)
Virginia Historical Society—Richmond, VA (director et. al.)
Washington State University—Pullman, WA (Dir. Am. Studies & A. Prof. Hist.).
Washington University in St. Louis—St. Louis, MO.
Wayne State University—Detroit, MI.
Westchester County—Westchester, NY.
Westchester County Board of Legislators—White Plains, NY (Chairman).
Western Kentucky University—Bowling Green, KY.
Western Reserve Historical Society—Cleveland, OH.
West Liberty State College, West Liberty, WV.
West Virginia, College of—Beckley, WV.
West Virginia Historical Association (unanimous vote).
West Virginia University—Morgantown, WV.
Wichita State University—Wichita, KS.
Williamette University—Salem, OR.
Wisconsin—Madison, University of—Madison, WI.
Wisconsin, University of—Milwaukee, WI (Dir. Ctr. 20th Century Studies).
Wisconsin State Historical Society, Madison, WI.
Yale University—New Haven, CT.
York College—York PA.
Adams, Brock (WA)
Akaka, Daniel K. (HI)
Bond, Christopher S. (MO)
Boren, David L. (OK)
Breaux, John B. (LA)
Brown, Hank (CO)
Burdick, Quentin N. (ND)
Burns, Conrad R. (MT)
Coats, Dan. (IN)
Cochran, Thad (MS)
Cohen, William S. (ME)
Conrad, Kent (ND)
Craig, Larry E. (ID)
Cranston, Alan (CA)
D'Amato, Alfonse (NY)
Danforth, John C. (MO)
Daschle, Thomas A. (SD)
DeConcini, Dennis (AZ)
Dodd, Christopher J. (CT)
Dole, Bob (KS)
Domenici, Pete V. (NM)
Durenberger, Dave (MN)
Fowler, Wyche, Jr. (GA)
Garn, Jake (UT)
Glenn, John (OH)
Gorton, Slade (WA)
Gramm, Phil. (TX)
Grassley, Chuck (IA)
Harkin, Tom (IA)
Hatch, Orrin G. (UT)
Hatfield, Mark O. (OR)
Heflin, Howell (AL)
Helms, Jesse (NC)

Hollings, Ernest F. (SC)
Inouye, Daniel K. (HI)
Jeffords, James M. (VT)
Kassebaum, Nancy L. (KS)
Kasten, Robert W., Jr. (WI)
Kennedy, Edward M. (MA)
Kerry, John F. (MA)
Lautenberg, Frank R. (NJ)
Levin, Carl (MI)
Lieberman, Joseph I. (CT)
Lott, Trent (MS)
Lugar, Richard (IN)
Mack, Connie (FL)
McCain, John (AZ)
McConnell, Mitch (KY)
Mikulski, Barbara A. (MD)
Murkowski, Frank H. (AK)
Nickles, Don (OK)
Nunn, Sam (GA)
Packwood, Bob (OR)
Pell, Claiborne (RI)
Pressler, Larry (SD)
Reid, Harry (NV)
Riegle, Donald W., Jr. (MI)
Robb, Charles S. (VA)
Rockefeller, John D., IV (WV)
Roth, William V., Jr. (DE)
Rudman, Warren B. (NH)
Sanford, Terry (NC)
Sarbanes, Paul S. (MD)
Seymour, John (CA)
Shelby, Richard C. (AL)
Simon, Paul (IL)
Simpson, Alan K. (WY)
Smith, Robert C. (NH)
Specter, Arlen (PA)
Stevens, Ted (AK)
Symms, Steve (ID)
Thurmond, Strom (SC)
Warner, John (VA)
Wellstone, Paul D. (MN)
Wofford, Harris (PA)

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 634, Susan H. Black, to be U.S. circuit judge;

Calendar 635, Sonia Sotomayor, to be U.S. district judge;

Calendar 636, Loretta A. Preska, to be U.S. district judge;

Calendar 637, Irene M. Keeley, to be U.S. district judge;

Calendar 685, Bruno V. Manno, to be Assistant Secretary of Education for Policy and Planning;

Calendar 686, William D. Hansen, to be chief financial officer, Department of Education;

Calendar 687, Emerson J. Elliott, to be Commissioner of Education Statistics;

Calendar 699, I. Lewis Libby, Jr., to be Deputy Under Secretary of Defense for Policy;

Calendar 700, David S. Addington, to be general counsel for the Department of Defense;

Calendar 701, Carol J. Johns, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences;

Calendar 702, Robert S. Silberman, to be an Assistant Secretary of the Army;

Calendar 730, Timothy D. Leonard, to be U.S. district judge;

Calendar 731, Lourdes G. Baird, to be U.S. district judge;

Calendar 732, Irma E. Gonzalez, to be U.S. district judge;

Calendar 733, Rudolph T. Randa, to be U.S. district judge;

Calendar 734, Don J. Svet, to be U.S. attorney;

Calendar 735, John S. Simmons, to be U.S. attorney;

Calendar 736, Henry E. Hudson, to be Director of the U.S. Marshals Service;

Calendar 737, Timothy E. Flanigan, to be an Assistant Attorney General;

Calendar 738, Stephen G. Greene, to be Deputy Administrator of Drug Enforcement;

Calendar 742, John J. Easton, Jr., to be an Assistant Secretary of Energy;

Calendar 743, Virginia S. Douglas, to be a member of the Board of Directors of the National Institute of Building Services;

Calendar 744, John H. Miller, to be a member of the Board of Directors of the National Institute of Building Sciences;

Calendar 745, Walter S. Blackburn, to be a member of the Board of Directors of the National Institute of Building Sciences;

Calendar 746, C.C. Hope, Jr., to be a member of the Board of Directors of the Federal Deposit Insurance Corporation;

Calendar 747, James D. Jameson, to be an Assistant Secretary of Commerce; and

Calendar 763, Linton F. Brooks, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Susan H. Black, of Florida, to be U.S. circuit judge for the Eleventh Circuit.

Sonia Sotomayer, of New York, to the U.S. district judge for the Southern District of New York.

Loretta A. Preska, of New York, to be U.S. district judge for the Southern District of New York.

Irene M. Keeley, of West Virginia, to be U.S. district judge for the Northern District of West Virginia.

DEPARTMENT OF EDUCATION

Bruno Victor Manno, of Ohio, to be Assistant Secretary of Education for Policy and Planning.

William Dean Hansen, of Idaho, to be Chief Financial Officer, Department of Education.

Emerson J. Elliott, of Virginia, to be Commissioner of Education Statistics, for a term expiring June 20, 1995.

DEPARTMENT OF DEFENSE

I. Lewis Libby, Jr., of the District of Columbia, to be Deputy Under Secretary of Defense for Policy.

David Spears Addington, of Virginia, to be general counsel for the Department of Defense.

Carol Johnson Johns, of Maryland, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences.

Robert S. Silberman, of Maryland, to be an Assistant Secretary of the Army.

THE JUDICIARY

Timothy D. Leonard, of Oklahoma, to be U.S. district judge for the Western District of Oklahoma.

Lourdes G. Baird, of California, to be U.S. district judge for the Central District of California.

Irma E. Gonzalez, of California, to be U.S. district judge for the Southern District of California.

Rudolph T. Randa, of Wisconsin, to be U.S. district judge for the Eastern District of Wisconsin.

DEPARTMENT OF JUSTICE

Don J. Svet, of New Mexico, to be U.S. attorney for the District of New Mexico.

John S. Simmons, of South Carolina, to be U.S. attorney for the District of South Carolina.

Henry Edward Hudson, of Virginia, to be Director of the U.S. Marshals Service.

Timothy E. Flanigan, of Virginia, to be an Assistant Attorney General.

Stephen H. Greene, of Maryland, to be Deputy Administrator of Drug Enforcement.

DEPARTMENT OF ENERGY

John J. Easton, Jr., of Vermont, to be an Assistant Secretary of Energy (Domestic and International Energy Policy).

NATIONAL INSTITUTE OF BUILDING SCIENCES

Virginia Stanley Douglas, of California, to be a member of the Board of Directors of the National Institute of Building Sciences.

John H. Miller, of Connecticut, to be a member of the Board of Directors of the National Institute of Building Sciences.

Walter Scott Blackburn, of Indiana, to be a member of the Board of Directors of the National Institute of Building Sciences.

FEDERAL DEPOSIT INSURANCE CORPORATION

C.C. Hope, Jr., of North Carolina, to be a member of the Board Directors of the Federal Deposit Insurance Corporation.

DEPARTMENT OF COMMERCE

James D. Jameson, of California, to be an Assistant Secretary of Commerce.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Linton F. Brooks, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

STATEMENT ON THE NOMINATION OF JUDGE RUDOLPH THOMAS RANDA

Mr. KASTEN. Mr. President, I am certainly pleased that Judge Randa has been nominated by the President, and now confirmed by the Senate, to fill the open judgeship on the Federal District Court for the Eastern District of Wisconsin.

I was not surprised when Judge Randa was one of the five candidates that was considered most qualified by the Federal Merit Selection Commission that was established. That Commission included members chosen by

Senator KOHL, the State Bar of Wisconsin and me.

The Commission had the difficult job of reviewing the credentials of 22 highly qualified individuals. Though the qualifications of the five individuals recommended by the Commission reflected the high caliber of jurists and practitioners that we have in Wisconsin, I was pleased to recommend to the President the fine jurist that we have now confirmed.

Judge Randa has distinguished himself as both a practicing attorney and as a jurist in Wisconsin's fine judicial system. He has practiced on his own, served for 5 years in the Milwaukee City Attorney's Office, and then has served since 1975 as a judge on various courts.

Prior to his current position as Milwaukee County circuit court judge, which he has held for 10 years, Judge Randa also served as a judge on the Milwaukee Municipal Court, an earlier stint as a Milwaukee County circuit judge, and service on two different panels of our State's Court of Appeals.

Though we all wish it were not so, Wisconsin—and the Milwaukee area in particular—have been hit hard by the crime and drug problems that plague this Nation. Beyond the sadness that such problems mean to the individuals involved as victims, a severe strain is put on the whole judicial system as criminal cases must take precedence over civil matters.

The Eastern District bench needs for the current vacancy to be filled as soon as possible. Working from the premise that justice delayed is justice denied, the 19-month time period that civil matters take to get through the Eastern District must be reduced. A great step in that direction has been taken with this confirmation.

STATEMENT ON THE NOMINATION OF MR. HENRY HUDSON

Mr. THURMOND. Mr. President, I rise today to briefly comment on the nomination of Mr. Henry Hudson who was selected to be Director of the U.S. Marshals Service.

Mr. Hudson earned an undergraduate degree from the American University School of International Service in 1969. In 1974, he obtained a juris doctorate degree from American University Law School.

Mr. Hudson began working as a deputy sheriff for Arlington County while completing his undergraduate studies, and during law school, he served as deputy clerk of the Circuit Court for Arlington County. In 1974, Mr. Hudson became an assistant Commonwealth's attorney, and in 1978, he joined the U.S. Attorney's Office for the Eastern District of Virginia where he was an assistant U.S. attorney. In 1979, he entered into the private practice of law, and in 1980 Mr. Hudson became the Commonwealth's attorney for Arlington County where he served for 6 years. In 1986, Mr. Hudson was appointed as the U.S. attorney for the Eastern District of Virginia and served in this position until 1991. At which time, he became of counsel with the law firm of Reed, Smith, Shaw and McClay. President Bush nominated Mr. Hudson to be the Director of the U.S. Marshal Service on November 20, 1991, and in February 1992, Mr. Hudson began serving as the Acting Director.

Mr. President, I have reviewed Mr. Hudson's record and I believe his background as a prosecutor as well as his management experience will be a tremendous asset to him in this very important position. I strongly support his nomination and I urge my colleagues to do the same.

STATEMENT ON THE NOMINATION OF JOHN J. EASTON

Mr. WALLOP. Mr. President, on August 5, 1992, the Committee on Energy and Natural Resources favorably reported the nomination of John Easton to be Assistant Secretary of Energy for Domestic and International Energy Policy by a unanimous vote.

Mr. Easton currently serves the Department of Energy as general counsel and previously was Assistant Secretary of Energy for International Affairs and Energy Emergencies. Prior to joining DOE, Mr. Easton was in private law practice, and from 1981–85, he served as attorney general for the State of Vermont. Mr. Easton holds a doctor of laws degree from Georgetown University Law Center.

Mr. President, Mr. Easton is well qualified for the position to which he has been nominated, and I urge my colleagues to join me in supporting his confirmation.

STATEMENT ON THE NOMINATION OF C.C. HOPE, JR.

Mr. SANFORD. Mr. President, I rise today to express my strong support for the nomination of C.C. Hope, Jr., to serve another term as a member of the Board of Directors of the Federal Deposit Insurance Corporation [FDIC]. C.C. Hope, Jr., brings not only his impressive credentials as a banker to the FDIC, but also his numerous talents as reflected in his experience as a leader of financial and civil organizations.

Mr. Hope has had a long, distinguished career in banking, which he began some 45 years ago as a teller at First Union National Bank in Charlotte, NC. At that time, First Union National was a $35 million bank. During his 38 years at First Union, C.C. served in several capacities in the bank, participated in the negotiations for 28 mergers, and helped the bank grow into a multibillion-dollar institution. He also played a key role in establishing the bank holding company, First Union Corp., which now has assets of approximately $45 to $50 billion. In addition, C.C.'s talents and accomplishments did not go unnoticed by the State of North Carolina, as evidenced by his service as secretary of the North Carolina Department of Commerce from 1983 to 1985.

Mr. Hope's successful banking career has naturally placed him in leadership positions in a variety of financial organizations. He has served as president of the American Bankers Association and also as chairman of the ABA task force on relationships with the bank regulatory agencies. This task force conducted seminars across the Nation between banks and regulators, including the FDIC, the Comptroller of the Currency, and the Federal Reserve Board. He has also served on the advisory board of the Federal National Mortgage Association, and the Comptroller of the Currency's Advisory Committee.

Mr. Hope's strong interest in education has certainly been evident: a graduate of Wake Forest University, he has also completed graduate work at the Harvard Business School, and the Stonier Graduate School of Banking at Rutgers University. Currently, he is vice chairman and former chairman of the board of Wake Forest University; he is chairman of the board of the foundation, and has served as dean of Southwestern Graduate School of Banking at Southern Methodist University in Dallas, TX.

Finally, C.C. Hope, Jr., is a decorated veteran who has also contributed to his local business and religious communities. He led the effort to establish the Charlotte Coliseum, has spoken out for arts and education, and is chairman of the Neighborhood Reinvestment Corp. He is a deacon in his church and a Sunday school teacher.

Mr. President, C.C. Hope, Jr., is a man of talent and integrity. He has had 6 years experience already at the FDIC, and his contributions could not have come at a more important time. I am pleased that his nomination has been considered in such an expedited manner, it is important that we return him to his post so that he can continue to apply the knowledge he has gained from a long distinguished career to the FDIC, to facilitate the safety and soundness of our Nation's banking system.

EXECUTIVE CALENDAR

UNANIMOUS CONSENT ON TREATIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to consider the following matters.

Mr. President, these are treaties, conventions, and protocols. I will identify them by calendar number—Executive Calendar Item Nos. 29, 37, 38, 39, 40, 41, 42, 43, 44.

I further ask unanimous consent that the treaties be considered as having been advanced through the various parliamentary states up to and including the presentation of the resolutions of ratification; that the recommended un-

derstandings to Executive Calendar Item No. 29 be considered as having been agreed to, that no other amendments, provisos, understandings or reservations be in order; that any statements appear as if read in the RECORD; and that the Senate vote en bloc on the resolutions of ratification without any intervening action or debate with one vote to count as nine.

I now ask for a division vote.

The PRESIDING OFFICER. All those in favor of the resolutions of ratification stand and be counted. [After a pause.]

All those opposed to the resolutions of ratification stand and be counted.

Two-thirds of those voting, having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification considered and agreed to are as follows:

(The resolution of ratification on the Basel Convention of Transboundary Movements of Hazardous Wastes and Their Disposal will be printed in a future edition of the RECORD:)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the People's Republic of the Congo Concerning the Encouragement and Reciprocal Protection of Investment, signed at Washington, February 12, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Republic of Tunisia Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol, signed at Washington on May 15, 1990.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Democratic Socialist Republic of Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and a Related Exchange of Letters, signed at Colombo, Sri Lanka on September 20, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Czech and Slovak Federal Republic Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Three Related Exchanges of Letters, signed at Washington on October 22, 1991.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and Related Exchanges of Letters, signed at Washington on June 17, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Finland to the Treaty of Friendship, Commerce, and Consular Rights of February 13, 1934, as Modified by the Protocol of December 4, 1952, signed at Washington on July 1, 1991.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of Ireland to the Treaty of Friendship, Commerce and Navigation of January 21, 1950, signed at Washington on June 24, 1992.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Conservation of Anadromous Stocks in the North Pacific Ocean, with Annex, which was signed by the United States, Canada, Japan, and the Russian Federation on February 11, 1992, in Moscow.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the motions to reconsider the votes be tabled en bloc; that the President be notified of the Senate's action; and that the Senate return to legislative session.

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

BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

Mr. PELL. Mr. President, today the Senate has before it for its consideration the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

The convention was negotiated under the auspices of the United Nations Environment Programme. Its goal—as described by the Department of State—is "the reduction of risks to health and the environment posed by improperly-managed wastes."

There can be no doubt about the need for strict controls on waste exports. I suspect that we all have heard horror stories about hazardous waste dumping. Perhaps the most publicized of these incidents was the 1986 saga of the Philadelphia "garbage barge" which left port with nearly 14,000 tons of toxic incinerator waste. The ship made a number of unsuccessful attempts to unload its cargo in the Caribbean and along the coast of Africa. Ultimately the ship appeared off the coast of Singapore with a new name, but without its cargo of ash. Presumably the ash was dumped at sea.

Reforms in Eastern Europe have shone a new light on the use of that region as a dumping ground for waste from throughout Europe.

Mr. President, the convention has three basic features. First, it requires the "environmentally sound management" of all transboundary shipments of hazardous and other wastes. The convention defines this as "taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes." Technical guidelines for "environmentally sound" waste management will be determined by the parties to the convention at their first meeting.

Second, the convention establishes a notice and consent system. Any export of hazardous waste requires the prior approval of the exporting State, any transit States, and the recipient State prior to its shipment. States are obligated to prohibit the export of wastes covered by the convention if they have reason to believe that the wastes will not be handled in an environmentally sound manner.

Third, the convention prohibits trade in hazardous and other wastes between parties and nonparties except under separate bilateral or multilateral waste agreements. Preexisting agreements, such as the United States bilateral agreements with Canada and Mexico, must be "compatible with the environmentally sound management of hazardous wastes and other wastes as required by the convention." New agreements must contain provisions ensuring that internationally transported wastes will be managed in a manner "not less environmentally sound than those provided for by this Convention. * * *"

The administration has requested that the Senate provide its advice and consent to the convention with four understandings. The committee agreed to the administration's request and these understandings have been incorporated in the resolution of ratification recommended to the Senate.

The first understanding makes clear that, in accordance with customary international law, the convention does not apply to sovereign immune vessels and aircraft. The second understanding clarifies that the notification requirements in the convention do not apply to ships passing through territorial seas and exclusive economic zones.

The third understanding relates to the U.S. understanding of Article 4(9)(a) of the convention which states: "Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if: (a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner;" The understanding states that the United States will consider the cost of disposal, including the comparative cost of environmentally sound disposal outside the United States, as one factor in deciding whether disposal sites in the United States are "suitable."

The fourth understanding clarifies the U.S. interpretation of article 9(2) of the convention. This article states:

In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are: (a) taken back by the exporter or the generator, or, if necessary, by itself into the State or export, or, if impracticable, (b) are otherwise disposed of in accordance with the provisions of this Convention.* * *

The understanding clarifies that the general language of the convention is not interpreted to create an obligation for the exporting state with regard to cleanup, beyond taking such wastes back, or disposing of them in accordance with the convention.

The State Department has informed the committee that it will not ratify the convention prior to the enactment of implementing legislation both in the Letter of Submittal accompanying the convention itself, and in a subsequent letter on July 24, 1992. I ask unanimous consent that the letter appear following my remarks in the RECORD.

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

(See exhibit 1.)

Mr. PELL. Mr. President, the Basel Convention could mark a significant advance in efforts to promote the sound management of the international trade in hazardous wastes or it could simply ratify the status quo. As is so often the case, the devil is in the details. A key issue facing parties to the convention will be the elaboration of technical guidelines that give substance to the convention's requirement of "environmentally sound management." It is my hope, and the committee's hope, that these guidelines will provide equivalent environmental protection to standards established in U.S. law.

Finally, Mr. President, I want to make some brief comments about Article 26(1) of the convention which states that "no reservation or exception may be made to this convention." As chairman of the Committee on Foreign Relations I would like to record my concern with the practice exemplified in article 26(1) of this convention, and most recently in article 24 of the Antarctic Protocol (Treaty Doc. 102-22), of including in treaties a provision which has the purported effect of inhibiting the Senate from attaching reservations deemed necessary in the national interest or of preventing the Senate from exercising its constitutional duty to give its advice and consent to all treaty commitments before they can in any way have a binding effect upon the United States.

Whatever justifications may have existed for inclusion of such a prohibition in the Antarctic Protocol (Treaty Doc. 102-22) or the Basel Convention (Treaty Doc. 102-5) in view of the peculiar circumstances there present, the Senate's approval of these treaties should not be construed as a precedent for such clauses in future agreements with other nations requiring the Senate's advice and consent. This committee has made its position on this issue clear in the past (S. Exec. Rpt. No. 3, 85th Congress, 1st Session, p. 17, 1957). The President's agreement to such a prohibition can not constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest.

Mr. President, I urge my colleagues to support ratification of the convention.

EXHIBIT 1

U.S. DEPARTMENT OF STATE,
Washington, DC, July 24, 1992.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: On March 12, Principal Deputy Assistant Secretary of State Richard J. Smith testified before your committee on the importance of ratification of the Basel Convention on Control of Transboundary Movements and Hazardous Wastes and Their Disposal. In requesting prompt Senate action in support of ratification, he also stressed the urgent need for Congressional approval of proposed Administration legislation to implement the Convention. Both actions are needed before the U.S. can ratify the Convention.

Since Mr. Smith's testimony, international developments have made U.S. ratification of the Convention even more urgent. On May 5, the Basel Convention entered into force for those countries having ratified the Convention.

I would like to take this opportunity to reemphasize the reasons we attach such importance to the issue of ratifying this Convention.

First, the Basel Convention represents an important step in reducing the potential risks to health and the environment posed by improperly managed wastes. It also establishes a uniform scheme worldwide to control those transboundary movements that do occur, both for disposal and for recycling. It is very important for the United States to take a leadership role in fostering and developing this regime.

Second, since the United States is not a Party to the Basel Convention, there may be significant disruptive effects on the movement of wastes out of and into the United States for disposal, and particularly for recycling. Articles 4(5) and 11(1) of the Convention obligate Parties to prohibit exports to and imports from non-Parties of Basel-covered wastes, except where there is a regional, multilateral or bilateral agreement providing for the environmentally sound management of transboundary movements of such wastes. U.S. recycling trade with other OECD members will continue under a Council Decision adopted on March 30, and movements of hazardous wastes between the United States and Canada and the United States and Mexico will be governed by existing bilateral agreements, all other transboundary movements of Basel-covered wastes with respect to Basel Convention Parties are now prohibited.

For several years, the U.S. has exported small volumes of hazardous wastes to Finland, primarily dioxins for disposal in a highly sophisticated incinerator. Since May 5, exports of these wastes to Finland (now a Party to the Basel Convention) have been stopped. No facility for appropriate disposal of such materials currently exists in the United States. These exports to Finland are not permissible under the OECD Council Decision because they are not exported to Finland for recycling. We have determined that we do not have sufficient legislative authority, in the absence of our proposed implementing legislation, to enter into a bilateral agreement with Finland that "stipulates provisions no less environmentally sound" than the Basel Convention.

Finally, under Article 15, the first meeting of the Conference of the Parties to the Convention must take place within the first year after the Convention's entry into force. The Basel Interim Secretariat has tentatively scheduled this first meeting for November 30-December 4, most likely in Montevideo, Uruguay. Important implementation decisions will be made and processes set into motion in Montevideo to develop technical guidelines for environmentally sound management as well as possible protocols to the Convention, such as one covering liability and compensation. The United States, if it has not ratified the Convention by that time, would not be able to be a full participant in this meeting, and therefore would not be able to promote fully U.S. approaches and views in developing such technical guidelines and protocols.

Failure to become a Party would preclude United States involvement in important first steps in the life of the Convention and would have a significant impact on the interests of U.S. exporters and importers of hazardous and other wastes. We continue to believe that it is critical for the United States to ratify the Basel Convention at the earliest possible time. We remain anxious to assist in this process in any way we can.

I look forward to hearing from you in the very near future.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

BILATERAL INVESTMENT TREATIES WITH CZECH AND SLOVAK FEDERAL REPUBLIC, THE CONGO, THE RUSSIAN FEDERATION, SRI LANKA, AND TUNISIA

Mr. PELL. Mr. President, pending before the Senate are bilateral investment treaties with the Russian Federation, signed at Washington on June 17, 1992, and transmitted by President Bush on July 28, 1992 (Treaty Doc. 102-33); the Czech and Slovak Federal Republic, signed at Washington on October 22, 1991, and transmitted by President Bush on June 2, 1992 (Treaty Doc. 102-31); the People's Republic of the Congo, signed at Washington, February 12, 1990, and transmitted by President Bush on March 19, 1991 (Treaty Doc. 102-1); the Democratic Socialist Republic of Sri Lanka signed at Colombo, Sri Lanka on September 20, 1991, and transmitted by President Bush on March 24, 1992 (Treaty Doc. 102-25); and the Republic of Tunisia, signed at Washington on May 15, 1990, and transmitted by President Bush on May 17, 1991 (Treaty Doc. 102-6).

The principal purpose of the bilateral investment treaties is to promote the free flow of international investment and to encourage and protect U.S. investment in developing countries.

Before entering into negotiations, the United States developed a model treaty which sought to incorporate provisions which would facilitate the free flow of investment, prohibit practices which have emerged in various countries which inhibit that free flow, and generally codify rules on investment and dispute settlement, which the United States views as well-established international law and precedent. Specifically, the model treaty seeks to achieve the following objectives:

The better of either national or most-favored-nation treatment, for each party to the treaty, thereby providing in the case of United States companies a level playing field in competing with national and third country investors, subject to specified exceptions set forth in the annex to each treaty;

International law standards shall apply to the expropriation of investments, permitting expropriation only for a public purpose and requiring the payment of prompt and fair compensation;

The free transfer of funds associated with an investment into and out of the host country;

Access to binding international arbitration for settlement of investment disputes;

A prohibition on the imposition of performance requirements, which have become important as countries have increasingly imposed requirements to use domestically produced goods; and

The right of companies to hire top managers of their choice, regardless of nationality.

The earliest formal economic treaties that the United States negotiated with other countries were a series of Friendship, Commerce, and Navigation [FCN] treaties. These treaties set the framework for U.S. trade and investment relations with foreign countries.

With the advent of the General Agreement on Tariffs and Trade [GATT] in 1948, U.S. trade relations began to be set with foreign countries through multilateral trade agreements and the use of FCN treaties faded; the last two FCN's were negotiated in the late 1960's. This multilateral approach left a gap in relations with foreign countries involving U.S. investment abroad, since investment matters are currently outside the scope of GATT. However, the United States has included the investment issue of performance requirements in the Trade Related Investment Measures [TRIMMS] of the current Uruguay trade negotiations. The North American Free-Trade Agreement also has investment provisions similar to a bilateral investment treaty.

In an attempt to promote the free flow of investment internationally, in the absence of multilaterally agreed to rules, the United States began, in 1981, to negotiate a new series of treaties called Bilateral Investment Treaties [BIT's]. The BIT Program is designed to provide certain mutual guarantees and protections and to create a more stable and predictable legal framework for foreign investors with each of the treaty partners. A special tenet of the program is to ensure that United States direct investment abroad and foreign investment in the United States should receive fair, equitable and nondiscriminatory treatment. The BIT's are, therefore the modern successor on the investment side to the Friendship, Commerce, and Navigation Treaty series. In comparison with its predecessor, the BIT is far more detailed and provides greater protection for the foreign investor, including an investor-to-state disputes mechanism that generates to United States investors the right to binding arbitration against the host state without the involvement of the U.S. Government.

The Senate gave its advice and consent to ratification of BIT's with Senegal, Zaire, Morocco, Turkey, Cameroon, Bangladesh, Egypt, and Grenada in 1988, and in 1990 a BIT with Panama and a business and economic relations treaty with Poland which contained BIT elements. The treaty with Poland was the first extension of this program to facilitate the continuation of economic and political changes which have taken place in Eastern Europe over the last 4 years. All of these treaties have entered into force except the one with Poland. The treaty with Poland has not been brought into force because Polish law on intellectual property rights has not yet been revised in conformity with the terms of the treaty.

The negotiation of BIT's has accelerated dramatically since 1990. The administration has signed a BIT with Kazakhstan, Argentina, and Romania. These treaties should be submitted to the Senate later this year. Negotiations are currently ongoing with Uruguay, Bolivia, Nigeria, Hungary, Jamaica, Armenia, Costa Rica, Hong Kong, Venezuela, Colombia, Pakistan, Peru, Mongolia, Kyrgyzstan, Barbados, and Bulgaria. In addition, there are 14 other countries with which the administration hopes to initiate negotiations in the near future.

The administration has informed the committee that there have been no major problems involving a United States investment, with the exception of Zaire, in countries with which bilateral investment treaties are in force. They have also stated there have been no cases in which the bilateral investment treaty dispute settlement mechanism for international arbitration has been invoked.

The administration has indicated that in a number of the countries with BIT's in effect, U.S. investment has increased since the BIT went into force. However, the administration has pointed out that the existence of a BIT will not guarantee increased U.S. investment. Because investment decisions are based on a variety of factors and the BIT's have only been in force for a short period of time, the administration says it would be difficult to draw a relationship between increased investment and the BIT's.

The proposed treaties with Russia, the Czech and Slovak Federal Republic, the Congo, Sri Lanka, and Tunisia generally satisfy the major objectives contained in the model treaty and variations from these objectives are set forth in the committee's reports.

During the committee's hearing on August 4, 1992, Assistant Secretary of State for Economic and Business Affairs, Eugene J. McAllister urged the Senate to give its advice and consent to the treaty as soon as possible:

> At first glance, given the possible separation of Czechoslovakia into two states, it may appear to be premature to act at this time. However, we believe it is important to act quickly. While separation of the country appears likely, it is still not a certainty that the Czech and Slovak Federal Republic will split.

The administration has urged the committee and the Senate to act quickly to give advice and consent to ratification of this treaty. It is scheduled for consideration by the Czech and Slovak Federal Republic Federal Assembly in September. The administration has said it does not expect any opposition to the treaty and that the Czech and Slovak Federal Government is prepared to bring the treaty into force once ratified.

If the two governments are able to bring this treaty into force prior to a possible separation of the Federal Republic the committee has been assured by the administration that the treaty would be binding under international law on the successor states.

In the event the treaty is not ratified by the Czech and Slovak Federal Republic and does not enter into force prior to any separation of the Federal Republic, the administration has informed the committee that it would ask the successor states to accept the treaty for ratification as is. In the event any substantive changes in the treaty are agreed to with a successor state to the Czech and Slovak Federal Republic, the administration has agreed to submit the revised treaty for advice and consent.

The committee acknowledges the confidence expressed by the administration that it is possible for this treaty to enter into force prior to any possible separation of the Czech and Slovak Federal Republic, and its representation that the treaty will be binding upon any successor states should a separation subsequently occur. Accordingly, the committee has accepted the urging of the administration to act quickly on this treaty and recommends that the Senate give its advice and

consent to ratification at the earliest possible date.

On August 4, 1992, the Committee on Foreign Relations held a hearing on these treaties. Testimony was received by the Honorable Eugene J. McAllister, Assistant Secretary for Economic and Business Affairs Bureau, Department of State.

The committee also received answers from the administration to numerous questions regarding the operation of the bilateral investment treaty program and the provisions of this treaty. This material, together with the administration's description of the U.S. Model Bilateral Investment Treaty [BIT] of February 1992 has been made a part of the official record of these hearings.

In addition, the committee received statements in support of the treaty from the National Association of Manufacturers, the U.S. Council for International Business, and Kenneth J. Vandevelde, associate professor of law, Western State University College of Law, San Diego, CA.

The Committee on Foreign Relations voted to report favorably these treaties, and recommend that the Senate give its advice and consent to their ratification at a meeting on August 6, 1992.

Mr. President, I urge that the Senate advise and consent to the bilateral investment treaties with Russia, the Czech and Slovak Federal Republic, the Congo, Sri Lanka, and Tunisia.

PROTOCOLS TO THE FRIENDSHIP, COMMERCE AND NAVIGATION TREATIES WITH FINLAND AND IRELAND

Mr. PELL. Mr. President, pending before the Senate are protocols to the existing Friendship, Commerce and Navigation Treaties with Finland (Treaty Doc. 102-34) and Ireland (Treaty Doc. 102-35), transmitted by President Bush on July 30, 1992.

These protocols will establish the legal basis by which the United States may issue investor (E-2) visas to qualified nationals of Finland and Ireland by supplementing the United States-Finland and United States-Ireland friendship, commerce, and navigation [FCN] treaties to allow for entry and sojourn of investors, a benefit provided in the large majority of United States FCN treaties. United States investors are already eligible for Finnish and Irish visas that offer comparable benefits to those that would be accorded nationals of Finland and Ireland under E-2 visa status.

The protocols are a precondition to the issuance of a treaty investor visa to a Finnish or Irish national, inasmuch as section 101(a)(15)(E)(ii) of the Immigration and Nationality Act [INA], 8 U.S.C. 1101(a)(15)(E)(ii), permits issuance of an E-2 visa only to a nonimmigrant who is "* * * entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national * * * solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital."

Although the United States FCN treaties contain a provision qualifying the treaty partner's nationals for E-2 visas, the existing United States-Finland and United States-Ireland treaties do not. The protocols are intended to overcome this deficiency.

The Treaty protocols reflect language found in the INA and in U.S. FCN and investment treaties generally. The principal substantive article of the protocols provide that:

> Nationals of either Contracting Party shall be permitted, subject to the laws relating to the entry and sojourn of aliens, to enter the territories of the other Party and to remain therein for the purpose of developing and directing the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital.

The administration has informed the committee that Finnish direct investment in the United States totaled $1.763 billion at yearend 1990, while United States direct investment in Finland amounted to $542 million. Irish direct investment in the United States totaled $905 million at yearend 1990, while United States direct investment in Ireland amounted to $6.776 billion.

On August 4, 1992, the Committee on Foreign Relations held a hearing on these protocols. Testimony was received by the Honorable Eugene J. McAllister, Assistant Secretary of State for Economic and Business Affairs Bureau. On August 6, 1992, the committee voted to report favorably these protocols and recommended that the Senate give its advice and consent to their ratification.

Mr. President, I urge that the Senate advice and consent to the pending protocols with Finland and Ireland.

CONVENTION FOR THE CONSERVATION OF ANADROMOUS STOCKS IN THE NORTH PACIFIC OCEAN

Mr. PELL. Mr. President, today the Senate has before it for its consideration the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, or, more simply, the Salmon Convention.

The convention prohibits the directed take of salmon stocks, and requires that their incidental take be reduced to the maximum extent practicable. The convention applies to the area of the North Pacific Ocean north of 33 degrees north latitude and beyond coastal state 200-mile exclusive economic zones [EEZ's].

The need for this convention was underscored in a hearing before the committee by our colleague from Oregon, Senator PACKWOOD; as well as Mr. Richard Lauber, the chairman of the North Pacific Fisheries Management Council and the commissioner of the International North Pacific Fisheries Council; and Mr. David Colson, the Deputy Assistant Secretary for Oceans and Fisheries Affairs.

The convention is notable for its conclusion of enforcement mechanisms. It authorizes parties to take measures cooperatively and individually to prevent trafficking in illegally harvested stocks. Further, the convention authorizes the boarding, search, and seizure of ships of states parties or the arrest of individuals by duly authorized officials of another party. Any ship seized or individual arrested in this manner shall be turned over to their government as soon as possible for appropriate legal action.

The convention also establishes a new organization—the North Pacific Anadromous Fish Commission—to promote the conservation of anadromous stocks in the convention area. The convention vests the Commission with broad authority to make recommendations and collect information. This includes authority to: Recommend measures for the conservation of anadromous stocks; promote the exchange of information about activities contrary to the purpose of the convention; consider and make proposals for the enactment of schedules of equivalent penalties for activities contrary to the convention; and recommend amendments to the convention. All important Commission decisions will be made by consensus, with each party having the right to decide if an issue is important.

Mr. President, the committee's report makes three recommendations with regard to the convention. First, it notes that the convention is consistent with agenda 21—the program of action to promote sustainable development adopted at the recently concluded U.N. Conference on Environment and Development—and urges the administration to continue its support for agenda 21. Second, the committee strongly encourages the U.S. representatives on the Commission to advocate proposals for the adoption by each of the parties of uniform certificate of origin programs. Finally, the committee encourages the administration to seek adherence to the terms of the convention by those nonparties whose fishing activities affect the conservation of Pacific salmon.

One final note Mr. President, I would note that the convention draws heavily on principles found in customary international law, as reflected in article 66 of the 1982 U.N. Convention on the law of the sea. That article recognizes that states in whose rivers anadromous stocks originate have primary interest in and responsibility for these stocks, even when they move to the high seas.

In my view, the fact that the administration so frequently draws on the law of the sea, as it has in this convention, underscores the desirability of

seeing this convention submitted to the Senate for this advice and consent.

Mr. President, I am aware of no opposition to this treaty, and I urge my colleagues to support its approval.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

PROVIDING FOR THE CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE AND THE HOUSE

Mr. MITCHELL. Mr. President, on behalf of the two leaders, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 135) providing for a conditional recess or adjournment of the Senate from Wednesday, August 12, 1992 until Tuesday, September 8, 1992, and a conditional adjournment of the House on the legislative day of Wednesday, August 12, 1992, until Wednesday, September 9, 1992.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Without objection, the concurrent resolution is agreed to.

So the concurrent resolution (S. Con. Res. 135) was agreed to, as follows:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, August 12, 1992 pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12 noon, or until such time as may be specified by the majority leader, or his designee, in the motion to adjourn or recess, on Tuesday, September 8, 1992, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on the legislative day of Wednesday, August 12, 1992, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, it stand adjourned until 12 noon on Wednesday, September 9, 1992, or until 12 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

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

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REHABILITATION ACT AMENDMENTS OF 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 589, S. 3065, a bill to revise and extend the Rehabilitation Act of 1973.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3065) to revise and extend the Rehabilitation Act of 1973, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 3065

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 "Rehabilitation Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Allotment percentage.
Sec. 104. Nonduplication.
Sec. 105. Reports.
Sec. 106. Review of applications.
Sec. 107. Carryover.
Sec. 108. Client assistance information.

Subtitle B—Vocational Rehabilitation Services

Sec. 111. Policy; authorization of appropriations.
Sec. 112. State plans.
Sec. 113. Determinations of eligibility and individualized written rehabilitation program.
Sec. 114. Scope of vocational rehabilitation services.
Sec. 115. Non-Federal share for construction.
Sec. 116. State Rehabilitation Advisory Council.
Sec. 117. Evaluation.
Sec. 118. Monitoring and review.
Sec. 119. Reallotment.
Sec. 120. Payments to States.
Sec. 121. Client assistance program.
Sec. 122. Innovation and expansion grants.
Sec. 123. Study of needs of American Indians with handicaps.
Sec. 124. Review of data collection system.
Sec. 125. Exchange of data.
Sec. 126. Issuance of regulations.
Sec. 127. Social Security reimbursement payments.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.
Sec. 302. Training.
Sec. 303. Special training initiatives.
Sec. 304. Community rehabilitation programs for individuals with disabilities.
Sec. 305. Loan guarantees for community rehabilitation programs.
Sec. 306. Comprehensive rehabilitation centers.
Sec. 307. General grant and contract requirements.
Sec. 308. Authorization of appropriations for special projects and supplementary services.
Sec. 309. Special demonstration programs.
Sec. 310. Migratory workers.
Sec. 311. Special recreational programs.
Sec. 312. Independent living services for older individuals who are blind.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of members.
Sec. 404. Compensation of staff.
Sec. 405. Authorization of appropriations.

TITLE V—ACCESS

Sec. 501. Access.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.
Sec. 605. Projects With Industry.
Sec. 606. Authorization of appropriations.
Sec. 607. Supported employment.

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

Sec. 701. Centers and services.

TITLE VIII—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 801. Congressional findings.
Sec. 802. Continued operation of Center.
Sec. 803. Audit, monitoring, and evaluation.

Sec. 804. Authorization of appropriations.
Sec. 805. Definitions.
Sec. 806. Construction of Act, effect on agreements.
Sec. 807. Establishment of a program.
Sec. 808. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 811. Committee for Purchase from People Who Are Blind or Severely Disabled.
Sec. 812. Individuals With Disabilities Education Act.
Sec. 813. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 814. President's Committee on Employment of People With Disabilities.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

SEC. 101. FINDINGS AND PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"SEC. 2. FINDINGS; PURPOSE; POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(4) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purpose of this Act is to empower individuals with disabilities to achieve economic self-sufficiency, independence, and inclusion and integration into the society, through—

"(1) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(2) independent living centers and services;

"(3) research;

"(4) training;

"(5) demonstration projects; and

"(6) the guarantee of equal opportunity.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, family member, guardian, advocate, or authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

"(B)".

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "facilities)" and inserting "facilities for community rehabilitation programs)".

(c) DRUG.—Section 7 is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraph (22) as paragraph (5); and

(3) by inserting paragraph (5) (as so redesignated by paragraph (2) of this subsection) after paragraph (4).

(d) EMPLOYMENT OUTCOME.—Section 7(6) is amended to read as follows:

"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".

(e) FEDERAL SHARE.—Section 7(7) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, III, and VI";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), and (E)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles II, IV, and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections [503] *501, 503,* and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after section (10) the following:

"(11) The term 'personal assistance services' means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) is amended to read as follows:

"(16) The term 'State' includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for those individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (as amended by subsection (c)(2)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B)(i) to the extent additional data is necessary, a comprehensive assessment of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment may include—

"(I) to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(II) an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(ii) the administration of the assessment described in clause (i);

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' means an item, a piece of equipment, or a product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(24) The term 'assistive technology service'—

"(A) means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device; and

"(B) includes—

"(i) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the customary environment of the individual;

"(ii) purchasing, leasing, or otherwise providing for the acquisition by individuals with disabilities of assistive technology devices;

"(iii) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(iv) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with existing education and rehabilitation plans and programs;

"(v) training or technical assistance for an individual with disabilities, or, if appropriate, the family of an individual with disabilities; and

"(vi) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, individuals with disabilities.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, IV, and V, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)));

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services for individuals with cognitive and sensory disabilities, including life skills training, interpreter and reader services;

"(vi) personal assistance services, including the training of personnel providing such services;

"(vii) supported living;

"(viii) transportation;

"(ix) physical rehabilitation;

"(x) therapeutic treatment;

"(xi) prostheses and other appliances and devices;

"(xii) health maintenance;

"(xiii) individual and group social and recreational services;

"(xiv) services for children;

"(xv) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future; and

"(xvi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, family members, guardians, or legal representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(33) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(34) The term 'transition services' means a coordinated set of activities for a student that—

"(A) are designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

"(B) are based on the needs of the individual student, taking into account the preferences and interests of the student; and

"(C) include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.".

(o) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES";

(D) by striking the item relating to the part heading for part B of title VI and inserting the following:

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

and

(E) by striking the item relating to section 622 and inserting the following:

"Sec. 622. Business opportunities for individuals with disabilities.".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place the term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind"; and

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), [14], (15), and (21), by striking "handi-

caps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in paragraph (4)—

(I) in subparagraph (A), by striking "handicap" each place such term appears and inserting "impediment"; and

(II) in subparagraph (E), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with"; and

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place the term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(ii) in paragraph (1), by striking "blind or deaf individuals" and inserting "individuals who are blind or individuals who are deaf";

(B) in subsection (c)(1) by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)(1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5) and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4) by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a) by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b) by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (b), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (b), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a) by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Section 508 (29 U.S.C. 794d) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "handicaps" and inserting "disabilities"; and

(ii) in paragraph (3), by striking "Handicapped Employees" and inserting "Employees with Disabilities"; and

(B) in subsection (c), by striking "with handicaps" and inserting "with a disability".

(34) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(35) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(36) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(37) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(38) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(39) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(40) Part B of title VI is amended in the part heading by striking "HANDICAPS" and inserting "DISABILITIES".

(41) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)".

SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

SEC. 105. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

SEC. 106. REVIEW OF APPLICATIONS.

(a) TRANSFERS.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) COMPENSATION.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 107. CARRYOVER.

(a) IN GENERAL.—The Act is amended by adding after section 18 (29 U.S.C. 717) the following new section:

"SEC. 19. CARRYOVER.

"Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, part C of title VI, or part B, C, or D of title VII that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

SEC. 108. CLIENT ASSISTANCE INFORMATION.

(a) IN GENERAL.—The Act is amended by adding after section 19 (as added by section 107(a)) the following new section:

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals or their parents, guardians, or legal representatives of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 107(b)) the following:

"Sec. 20. Client assistance information.".

Subtitle B—Vocational Rehabilitation Services

SEC. 111. POLICY; AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) REAUTHORIZATION.—Section 100 is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B of this title (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997 except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking out "authorized to be appropriated under subsection (b)(1) for

the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Policy.".

SEC. 112. STATE PLANS.

(a) PERIOD.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) STATE AGENCY.—Section 101(a)(1)(A) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa, and (iv) in the case of each of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association), the appropriate State agency shall be the head of government of the entity".

(c) PLANS; POLICIES; METHODS.—Section 101(a)(5) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,"; and

(2) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) FACILITIES COMPLIANCE.—Section 101(a)(6)(B) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) PERSONNEL.—Section 101(a) is amended by striking paragraph (7) and inserting the following:

"(7)(A) provide for a comprehensive system of personnel development for professionals and paraprofessionals employed by the State agency, which system shall include—

"(i) the development, updating, and implementation of a plan that will address current and projected personnel needs of the State agency and that will coordinate and facilitate efforts to recruit, prepare, and retain qualified personnel; and

"(ii) a description of the procedures and activities the State will undertake to ensure that all personnel needed by the State agency to carry out this part are appropriately and adequately prepared, including—

"(I) training regarding responsibilities established by the Rehabilitation Act Amendments of 1992;

"(II) surveys to determine training needs;

"(III) a system for the continuing education of personnel; and

"(IV) procedures for acquiring and disseminating to personnel significant knowledge derived from research and other sources;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel needed by the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) AVAILABILITY OF COMPARABLE SERVICES.—Section 101(a)(8) is amended by striking "except that" and all that follows and inserting "except that such determinations shall not be required—

"(A) if the determinations would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D), as redesignated by paragraph (1) of this subsection, by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C), as so redesignated, by striking the comma at the end and inserting a semicolon.

(h) INTERAGENCY COOPERATION.—Section 101(a)(11) is amended—

(1) by striking "(11) provide for entering into cooperative agreements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A), as designated by paragraph (1) of this subsection—

(A) by striking "and" after "Individuals with Disabilities Education Act,"; and

(B) by adding after "the Carl D. Perkins Vocational Education Act" the following: ", and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938, (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.); and"; and

(3) by adding at the end the following:

"(B) in providing for interagency cooperation under subparagraph (A), to provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals) among the agencies;

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(i) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(j) CONTINUING STATEWIDE STUDIES.—Section 101(a) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15)(B), as so designated by paragraph (1), by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,".

(k) REVIEW AND EFFORTS.—Section 101(a)(16) is amended to read as follows:

"(16) provide for—

"(A) annual review and reevaluation (including input by the individual with a disability, or by the family of the individual if the individual with a disability requests, desires, or needs assistance) of the status of individuals with disabilities placed in extended employment settings in community rehabilitation programs (including workshops) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) to determine the interests, priorities, and needs of such individuals for their employment, or training for competitive employment, in integrated settings in the labor market; and

"(B) maximum efforts, including the provision of vocational rehabilitation services, de-

signed to promote movement from extended employment to integrated employment (including supported employment);".

(l) CONSTRUCTION.—Section 101(a)(17) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(m) VIEWS CONSIDERED.—Section 101(a)(18) is amended by inserting "the Director of the client assistance program under section 112," after "field of vocational rehabilitation,".

(n) STRATEGIC PLAN.—Section 101(a)(19) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(o) PUBLIC COMMENT.—Section 101(a)(23)(A) is amended by inserting after "comment on the State plan" the following: "before development of the plan by the State".

(p) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) is amended to read as follows:

"(24) contain plans, policies, and methods to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(B)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives and goals and objectives related to independent living before a student leaves a school setting, to the extent such goals and objectives are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services; and

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(3) to an individual, consistent with the individualized written rehabilitation program of the [individual]. *individual; and*".

(q) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting a semicolon; and

(3) by adding at the end the following:

"(26) provide for coordination and working relationships with the Statewide Independent Living Council established under section 704 and independent living centers within the State;

"(27) provide satisfactory assurances to the Commissioner that the State has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title;

"(28)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment;

"(29) describe how the State is taking steps to work with disability organizations, business, industry, and labor to expand employment opportunities for individuals with disabilities, including—

"(A) furnishing training and technical assistance with respect to changes made to the Act by the Rehabilitation Act Amendments of 1992; and

"(B)(i) furnishing training and technical assistance with respect to methods for complying with sections 503 and 504 of this Act and with title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

"(ii) otherwise ensuring equal opportunity for applicants and employees who are individuals with disabilities (regardless of whether an applicant or employee has applied for or is receiving vocational rehabilitation services under this Act); and

"(30) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings; or

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(r) TECHNICAL AMENDMENT.—Section 101 is amended by striking subsections (c) and (d).

SEC. 113. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A) shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the preliminary assessment described in subparagraph (C)(iii)(II), of section (7)(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for

vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual with a disability that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual with a disability agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(ii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-range rehabilitation goals based on the assessment of rehabilitation needs for the individual;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through an assessment of rehabilitation needs carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service; and

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate objectives and long-term rehabilitation goals for the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, family member, guardian, advocate, or authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program.".

(c) TECHNICAL AMENDMENT.—Section 102(c) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of paragraph (22)".

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case, either on a random basis or by agreement between the director of the designated State unit and the individual with a disability, from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (D) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(30); or

"(III) the commissions described in section 101(a)(30)(C)(ii).";

(2) in paragraph (3) by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

SEC. 114. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,"; and

(B) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "such services"; and

(B) by striking ": *Provided*, That" and inserting ", except that";

(4) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(5) by striking "and" at the end of paragraph (11);

(6) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(7) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided to assist an individual in performing work-related functions necessary to obtain and retain competitive work in an integrated work setting and to fulfill the functions of a job while the individual is actively involved in a rehabilitation program that includes the provision of other services authorized under this section; and

"(16) supported employment services.".

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b)(2) is amended by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting "the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)".

SEC. 115. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

SEC. 116. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(30) to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 704, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, who shall not be employed by the designated State unit, with knowledge of and experience with vocational rehabilitation programs;

"(E) at least one representative of community rehabilitation program providers;

"(F) at least one representative of business and industry;

"(G) at least one representative of labor;

"(H) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(I) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the membership of the Council.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit in the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 704, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e)); and

"(6) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings

shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

SEC. 117. EVALUATION.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by section 116(a), is further amended by adding at the end the following:

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Comn issioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 116(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

SEC. 118. MONITORING AND REVIEW.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by sections 116(a) and 117(a), is further amended by adding at the end the following:

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys;

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits;

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(28) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 117(b)) the following:

"Sec. 107. Monitoring and review.".

SEC. 119. REALLOTMENT.

(a) TERRITORIES.—Section 110(a)(3) (29 U.S.C. 730(a)(3)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau".

(b) REALLOTMENT.—Section 110(c) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year that will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

SEC. 120. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1), by striking out "(including any additional payment to it under section 110(b))";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking out "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3) The amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such subsection.".

SEC. 121. CLIENT ASSISTANCE PROGRAM.

(a) DIRECTLY RELATED SERVICES.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by inserting "and provide advocacy on behalf of" after "to assist"; and

(B) by inserting "and advocacy" after "including assistance"; and

(2) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) MINIMUM STATE ALLOTMENTS.—Section 112(e)(1) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau"; and

(3) in subparagraph (D)(ii)—

(A) by striking "subsection (c)" and inserting "clause (i)"; and

(B) by striking "by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics".

(d) EVALUATION.—Section 112 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112(h) (as so redesignated by subsection (d)(2) of this section) is amended by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

SEC. 122. INNOVATION AND EXPANSION GRANTS.

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"PART C—INNOVATION AND EXPANSION GRANTS

"SEC. 120. STATE ELIGIBILITY.

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

"SEC. 121. CONTENTS OF STRATEGIC PLANS.

"(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement

to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.

"(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

"SEC. 123. USE OF FUNDS.

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(2)(A) programs, projects, and activities designed to initiate, expand, and improve vocational rehabilitation services for individuals with the most severe disabilities (including increasing the availability of integrated, community-based service options and job opportunities through the redesign of existing service options);

"(B) special programs to initiate, expand, or improve services to classes of individuals with disabilities who have unusual or complex rehabilitation needs; and

"(C) programs that maximize the use of rehabilitation technology, including, if appropriate, the evaluation and adaptation to the workplace or training program;

"(3) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education and continuing education, and businesses, industry, and labor organizations in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, consumers, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(4) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(5) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(6) support the provision of training and technical assistance to consumers, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(7) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"SEC. 124. ALLOTMENTS AMONG STATES.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(B) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

SEC. 123. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

SEC. 124. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, particularly data on clients of the programs under title I of the Rehabilitation Act of 1973.

(b) CONSIDERATIONS.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of rehabilitation services, professionals in the field of vocational rehabilitation, consumers and organizations representing consumers, National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) SUBMISSION OF REPORT.—The Commissioner shall submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

SEC. 125. EXCHANGE OF DATA.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973, and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

SEC. 126. ISSUANCE OF REGULATIONS.

(a) ORDER OF SELECTION.—The Secretary of Education shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) of the Rehabilitation Act of 1973 if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(b) QUALITY OF SERVICES.—

(1) IN GENERAL.—The Secretary of Education shall promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services under section 102, and the procurement of such services directly by an individual with a disability consistent with section 102 of the Rehabilitation Act of 1973.

(2) PROCEDURES.—The regulations shall specify—

(A) procedures that States must adopt to ensure that the services are of sufficient scope and quality and that the costs of such services are reasonable; and

(B) procedures that prevent fraud, waste, and abuse with respect to the provision of such services.

SEC. 127. SOCIAL SECURITY REIMBURSEMENT PAYMENTS.

Any State that uses, during fiscal year 1992, program income from Social Security reimbursement payments generated under the State vocational rehabilitation services program under title I of the Rehabilitation Act of 1973 or the State supported employment services program under part C of title VI of such Act to support allowable expenditures under any other rehabilitation program under such Act may continue such use until October 1, 1994.

TITLE II—RESEARCH

SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) ensure the widespread distribution of practical information generated by research, demonstration projects, training, and related activities in usable formats regarding state-of-the-art practices, improvements in the services authorized under this Act, and new knowledge regarding disabilities to rehabilitation professionals, individuals with disabilities, and other interested parties; and

"(4) promote the transfer and utilization of rehabilitation technology to individuals with disabilities in order to enable such individuals to live more independently.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;" and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out title II, except with respect to expenses provided for under paragraph (1), such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

(a) ESTABLISHMENT.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) RESPONSIBILITIES.—Section 202(b) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and their families;";

(2) in paragraph (4)—

(A) by adding "widely" before "disseminating"; and

(B) by striking "and to public" and all that follows and inserting the following: "to public and private entities, rehabilitation practitioners, and individuals with disabilities and their families, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(3) in paragraph (6), by striking "concerning" and all that follows and inserting the following ", concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) by striking paragraph (7) and inserting the following:

"(7) preparing and submitting to the President and the appropriate committees of Congress an annual report on the implementation and conduct of programs and activities carried out under this title, including—

"(A) information on specific advances and developments produced by such programs and activities and the specific impact of the programs and activities on—

"(i) vocational rehabilitation services for individuals with disabilities; and

"(ii) the quality of life of individuals with disabilities;

"(B) a description of the manner in which such information was disseminated; and";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census";

(B) by inserting "widely" before "disseminating"; and

(C) by inserting ", individuals with disabilities and their families," after "rehabilitation professionals"; and

(6) by adding at the end the following new paragraph:

"(9) coordinating with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) DIRECTOR.—

(1) IN GENERAL.—Section 202(c)(1) is amended by striking the fourth sentence.

(2) QUALIFICATIONS.—Section 202(c)(2) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS-17 of the General Schedule under section 5332" and inserting "a rate that does not exceed the rate specified for level V of the Executive Schedule under section 5316"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) in the last sentence, by striking "in grade GS-17" and inserting "above grade GS-15".

(d) FELLOWSHIPS.—Section 202(d) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) SCIENTIFIC REVIEW.—Section 202(e) is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking "within" and inserting "by"; and

(3) by striking the period at the end and inserting the following: "competent to review research grants and programs, including knowledgeable individuals with disabilities and family members of individuals with disabilities. Individuals comprising such peer review groups shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

"(2) In providing such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities and their representatives.".

(f) USE OF FUNDS.—Section 202 is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) LONG-RANGE PLAN.—Section 202(g) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and their families, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in practical, usable formats to rehabilitation practitioners, individuals with disabilities, including individuals with disabilities who are from diverse ethnic and cultural backgrounds, or from populations unserved, or underserved, by programs under this Act, and the families of the individuals;

"(6) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established under section 203, individuals with disabilities and their families, and any other persons or entities the Director considers appropriate; and

"(7) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) RESEARCH PROGRAM.—Section 202(i)(2) is amended by striking "this section" and inserting "this title".

(i) PEDIATRIC REHABILITATION RESEARCH.—Section 202(j) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) REHABILITATION RESEARCHERS.—Section 202(k) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to areas of research that improve the effectiveness of services authorized under this Act.".

(k) RECOMMENDATIONS AND STUDY.—Section 202 is amended by striking subsections (l) and (m).

SEC. 204. INTERAGENCY COMMITTEE.

(a) ESTABLISHMENT.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) IDENTIFICATION, ASSESSMENT, AND COORDINATION.—Section 203(b) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and their families, the".

(c) REPORT.—Section 203(c) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

SEC. 205. RESEARCH.

(a) IN GENERAL.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, and VII of this Act."; and

(2) in the last sentence—

(A) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(B) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are from populations that are unserved, or underserved, by programs under this Act.".

(b) RESEARCH ACTIVITIES.—Section 204(b) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (7) through (18), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research activities described in paragraphs (2) through (18).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services, to serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and their families.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities and their families, and public and private agencies through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) research to develop and evaluate interventions, policies, and services that support families of children and adults who are individuals with disabilities; and

"(vi) research that will improve services and policies that foster the productivity, independence, and social integration and enable individuals with disabilities to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope and quality as to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) have the ability to carry out the training activities either directly or through another entity that can provide such training.

"(K) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(L) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(M) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and their families.

"(N) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Technology Research and Resource Centers operated by or in collaboration with institutions of higher education or nonprofit private organizations to conduct research, demonstration projects, and training activities regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for, better meeting the needs of, and addressing the barriers confronted by individuals with disabilities in employment, rehabilitation, education, transportation, communication, access to information, recreation, and other aspects of independent living.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out research and demonstration activities by—

"(i) planning and conducting research and development activities designed to produce new scientific knowledge, to identify new or emerging technologies, to develop or improve the design of rehabilitation technologies, to improve the design and usability of mass market products and environments, or to document the utilization, effectiveness, and benefits of such technologies, products, or environments; or

"(ii) facilitating service delivery systems change, by documenting, evaluating, and disseminating innovative, cost-effective service delivery models that—

"(I) are consumer responsive and individual and family centered; and

"(II) promote prompt utilization of a wide range of rehabilitation technologies, with special attention to service delivery to individuals with severe disabilities and service delivery in rural and urban areas.

"(C) To the extent consistent with the nature and type of research or demonstration activities provided under subparagraph (B), such Centers shall—

"(i) assist, train, and provide information to individuals with disabilities and their families to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options and entitlements available at the national, State, and local levels; and

"(ii) train individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology.

"(D) Areas of focus for the activities conducted by a Center shall include—

"(i) a life area consisting of—

"(I) early childhood life, including early intervention and family support;

"(II) education at the elementary and secondary levels, including transition from school to postschool activities;

"(III) employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 and title V; or

"(IV) independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills and activities of daily living; or

"(ii) a functional area, including an area such as seating and positioning, mobility, computer and information system access and use, augmentative communication, or alternative communication.

"(E) The Director may fund an additional Center with an area of focus not identified in subparagraph (D) that conducts research or demonstration activities relating to emerging program trends and technologies, based on public input and the recommendation of the Rehabilitation Research Advisory Council established under section 205.

"(F) Each Center shall—

"(i) have an advisory committee—

"(I) of which the majority of members are individuals with disabilities who are users of, or parents, family members, guardians, advocates, or authorized representatives of users of, rehabilitation technology; and

"(II) the full membership of which shall be broadly representative of individuals and groups having an interest in rehabilitation technology, from various perspectives, including providers, manufacturers, funders, and practitioners, and members of minority groups;

"(ii)(I) demonstrate effective working relationships with the State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals with Disabilities Act;

"(II) respond to needs of all individuals with disabilities who may benefit from the application of technology in a particular life or functional area that is the designated focus of the activities of the Center;

"(III) coordinate efforts, encourage planning and collaboration, and promote the interchange of data, reports, and other information, among the agencies, programs and organizations; and

"(IV) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, an annual report that documents the impact and outcomes of the program, including efforts to enhance the inclusion of individuals with disabilities in work, school, home, and other natural environments.

"(G) The Director shall make grants under this paragraph for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(H) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(4)(A) Research grants may be used as grants to States and to public or nonprofit agencies and organizations, including institutions of higher education, to pay for part or all of the costs of conducting a program for spinal cord injury research, including the costs of special projects and demonstrations related to spinal cord injuries that will—

"(i) ensure dissemination of research findings among all spinal cord injury centers;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any project or demonstration assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, or improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with barriers faced by individuals with spinal cord injuries in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed spinal cord injury center and the appropriate geographic and regional allocation of such centers.

"(5) Research grants may be used to establish model systems of comprehensive service delivery to individuals with severe disabilities other than spinal cord injuries requiring a multidisciplinary system of providing vocational and other rehabilitation services where the Director determines that the development of such systems is needed.

"(6) Research grants may be used to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.";

(3) in paragraphs (7) through (18), as so redesignated by paragraph (1), by striking "Conduct" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct"; and

(4) in paragraph (11), as so redesignated by paragraph (1), to read as follows:

"(11) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.".

(c) SIZE OF GRANT.—Section 204(d)(2) is amended by striking the period at the end and inserting the following: ", or the Director makes a determination that there is sufficient information to make an award without a site visit.".

(d) CONFORMING AMENDMENT.—Section 7303(b) of title 38, United States Code, is amended by striking "section 204(b)(2)" and all that follows through "(relating to Rehabilitation Engineering" and inserting "section 204(b)(3) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(3)) (relating to Rehabilitation Technology".

SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.

(a) COUNCIL.—Title II is amended by adding at the end the following new section:

"SEC. 205. REHABILITATION RESEARCH ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, and the community of individuals with disabilities and their families. At least one-half of the members shall be individuals with disabilities or members of their families.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Council who is not an employee of the Federal Government may receive compensation, which shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Council, including attendance at meetings and conferences of the Council, and travel to conduct the duties of the Council.

"(2) TRAVEL EXPENSES.—Each member of the Council shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, their parents, families, guardians, advocates, or authorized representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 302 through 304 (29 U.S.C. 772 et seq.) as sections 303, 304, and 301; and

(4) by inserting section 301 (as so redesignated by paragraph (2)) after section 300.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

"Sec. 300. Declaration of purpose.
"Sec. 301. Training.
"Sec. 302. Special training initiatives.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for the individuals who are blind.
"Sec. 315. Interpreter services for the individuals who are deaf.

"Sec. 316. Special recreational programs.
"Sec. 317. Independent living services for older individuals who are blind.".

SEC. 302. TRAINING.

(a) TRAINING GRANTS.—Section 301(a) (as so redesignated by section 301(b)(3)) is amended—

(1) in the first sentence—

(A) in the matter preceding paragraph (1), by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to those individuals with the most severe disabilities, and";

(2) in the second sentence, by striking "give due regard" and all that follows and inserting "submit to the Commissioner a detailed description of strategies that will be utilized to recruit and train members of minority groups and individuals with disabilities."; and

(3) in the last sentence, by striking ", in addition" and all that follows and inserting "furnish training regarding the services provided under this Act and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out the provisions of this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of the provisions of section 504 and of the Americans with Disabilities Act of 1990.".

(b) PROJECTS.—Section 301(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

"(B) Projects described in subsection (a) may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals from populations who are unserved, or underserved, by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists;

"(IV) specialized services for individuals with severe disabilities; or

"(V) recreation for individuals with disabilities; and

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities."; and

(2) in paragraph (3)(A), by striking clause (i) and inserting the following:

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of two years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and".

(c) GRANTS FOR INTERPRETERS.—Section 301(d) is amended—

(1) in paragraph (1)—

(A) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(B) in subparagraph (C), by adding "and" at the end;

[B] *(C)* by striking subparagraph (D); and

[C] *(D)* by redesignating subparagraph (E) as subparagraph (D).

(d) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 301(e) is amended—

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(2) in paragraph (2), by striking "the daily rate payable for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 301(f) is amended—

(1) by inserting "(1)" after "(f)";

(2) in the first sentence of paragraph (1) (as so designated by paragraph (1)) by striking "$31,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(3) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), at least 20 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used for projects for inservice training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training on the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 20 percent of the sums described in subparagraph (A) to designated State agencies for such inservice training.".

SEC. 303. SPECIAL TRAINING INITIATIVES.

Title III (29 U.S.C. 770) is amended by inserting after section 301 (as so redesignated by section 301(b)(3)) the following:

"SEC. 302. SPECIAL TRAINING INITIATIVES.

"(a) REHABILITATION TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—For the purpose of addressing unmet and emerging needs in the area of rehabilitation training, the Commissioner may make grants to and enter into contracts with State and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of establishing rehabilitation training projects.

"(2) PROJECTS.—Such a rehabilitation training project may provide training, traineeships, inservice training, continuing education, workshops, and technical assistance, and carry out related activities, designed to—

"(A) develop or improve the skills of rehabilitation personnel, including supported employment program personnel, client assistance program personnel, independent living center personnel, and personnel providing rehabilitation technology, to provide services under this Act to individuals with disabilities;

"(B) provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act; or

"(C) develop the skills of individuals with disabilities, their parents, family members, guardians, advocates, or authorized representatives, and other appropriate parties, to become active decisionmakers in the rehabilitation process.

"(3) AREAS.—An agency or organization that receives a grant or enters into a contract under paragraph (1) shall use funds made available through the grant or contract to establish a rehabilitation training project concerning—

"(A) rehabilitation technology;

"(B) job placement;

"(C) transition services;

"(D) best practices in serving individuals with specific disabilities, including disability groups that are emerging, or are unserved, or underserved, by programs under this Act;

"(E) best practices in serving individuals from diverse ethnic and cultural backgrounds; or

"(F) the provisions of this Act and related Acts, including the Americans with Disabilities Act of 1990.

"(4) CONSIDERATIONS.—In making a grant to, or entering into a contract with, an agency or organization under paragraph (1), the Commissioner shall consider the ability of the agency or organization—

"(A) to maximize training opportunities for the widest possible audience, including the ability to provide such training in rural or remote areas through distance training techniques;

"(B) to utilize multidisciplinary training for persons from a variety of rehabilitation settings, such as—

"(i) community rehabilitation program personnel;

"(ii) personnel of client assistance programs, independent living centers, and supported employment programs; and

"(iii) individuals with disabilities and their families; and

"(C) to provide training materials in accessible formats.

"(5) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under para-

graph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(b) TRAINING AND INFORMATION GRANTS.—

"(1) DEFINITION.—As used in this subsection, the term 'covered individual' means—

"(A) an individual with a disability;

"(B) a parent, family member, guardian, advocate, or authorized representative, of such an individual; and

"(C) another appropriate party.

"(2) ESTABLISHMENT.—The Commissioner may make grants to nonprofit private organizations to establish training and information programs for covered individuals to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities.

"(3) REQUIREMENTS.—Such training and information programs shall be designed to—

"(A) meet the unique training and information needs of covered individuals, including covered individuals who are members of groups that have been traditionally underrepresented, who are living in the area to be served by the grant; and

"(B) serve individuals with disabilities with the full range of disabilities, the parents, family members, guardians, advocates, and authorized representatives, of such individuals, and other appropriate parties.

"(4) AWARD OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that—

"(A) the grants are distributed geographically to the greatest extent possible throughout all the States; and

"(B) targeted to covered individuals—

"(i) in both urban and rural areas;

"(ii) within a State; or

"(iii) within a region.

"(5) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), a nonprofit private organization shall—

"(A)(i) be governed by a board of directors that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee to operate the training and information program under this section, that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; and

"(B) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to conduct effectively the training and information activities authorized under this section.

"(6) CONSULTATION.—Each nonprofit private organization operating a training and information program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist covered individuals located in the jurisdictions served by the program.

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(8) COORDINATION AND TECHNICAL ASSISTANCE.—The Commissioner shall, by grant, contract, or cooperative agreement, provide coordination and technical assistance for establishing, developing, and coordinating such training and information programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 304. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (as so redesignated by section 301(b)(3)) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

(b) ESTABLISHMENT.—Section 303(b) is amended—

(1) in paragraph (1)—

(A) by striking "training" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following new sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence, by striking "and such allowances" and all that follows and inserting a period; and

(iii) in the sentence beginning "In determining"—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants upon application approved by the designated State agency to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

SEC. 305. LOAN GUARANTEES FOR COMMUNITY REHABILITATION PROGRAMS.

Section 304 (as so redesignated by section 301(b)(3)) is amended—

(1) in the title, by striking "REHABILITATION FACILITIES" and "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

SEC. 306. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

SEC. 307. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310 (29 U.S.C. 777(a)) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, 316, and 317";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

SEC. 309. SPECIAL DEMONSTRATION PROGRAMS.

(a) ESTABLISHMENT.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1), by striking "and, where appropriate, constructing facilities";

(2) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(3) by striking the last sentence.

(b) PROJECTS TO INCREASE CLIENT CHOICE.—Section 311 is amended by striking subsection (b) and inserting the following:

"(b)(1)(A) The Commissioner may make grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the choice of providers of vocational rehabilitation services.

"(B) An entity that receives a grant under subparagraph (A) may use funds made available through the grant—

"(i) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(ii) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(2) In making grants under paragraph (1), the Commissioner may take into consideration the—

"(A) diversity of strategies to be used to increase client choice, including choice among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(3) To be eligible to receive a grant under paragraph (1), an entity shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a description of—

"(i) the manner in which the entity intends to promote increased consumer choice, including a description, if appropriate, of the manner in which the entity will determine the value of any voucher offered to an eligible client; and

"(ii) the outreach activities to be conducted by the entity to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals of the client;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for the initiation of the services, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule for determining whether such goals are being achieved.

"(4) Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(5) At least 80 percent of the funds awarded for any project under this subsection must be used for direct services, as specifically chosen by the eligible clients.

"(6)(A) The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers.

"(B) The Commissioner may reserve funds to carry out the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(7) As used in this subsection:

"(A) The term 'direct services' means the vocational rehabilitation services specified in section 103(a).

"(B) The term 'eligible client' means an individual with a disability as defined in section 7(8)(A) who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.".

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(d) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) in subparagraph (B), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(e) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3); and

(3) in paragraph (3) (as so redesignated by paragraph (2) of this subsection) by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(e) DEMONSTRATION PROJECTS.—Section 311 is amended by adding at the end the following new subsections:

"(f)(1) The Commissioner may make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations providing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with severe disabilities.

"(2) The recipient of the grant shall—

"(A) identify exemplary models that can be replicated for achieving such placements; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

"(g)(1) The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) An agency or organization that receives a grant under this paragraph shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(h)(1) The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.".

SEC. 310. MIGRATORY WORKERS.

(a) COLLABORATION.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "or to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 312 is amended by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

SEC. 311. SPECIAL RECREATIONAL PROGRAMS.

(a) GRANTS.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment" after "aid in the"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "and that with respect" and all that follows and inserting a period; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Federal share of the costs of the recreation programs shall be 90 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 312. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Title III is amended by adding at the end the following new section:

"SEC. 317. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

"(a) GRANTS.—The Commissioner may make grants to any designated State unit to provide independent living services and related services designed to assist older individuals who are blind to adjust to blindness by becoming more able to care for individual needs.

"(b) USE OF GRANTS.—

"(1) REQUIRED SERVICES.—A designated State unit shall use funds received under a grant described in subsection (a) to provide independent living skills training, information and referral services, peer counseling, and individual advocacy training.

"(2) ADDITIONAL SERVICES.—A designated State unit may use funds received under a grant described in subsection (a) to provide—

"(A) services to help correct blindness, such as—

"(i) outreach services;

"(ii) visual screening;

"(iii) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(iv) hospitalization related to such services to help correct blindness;

"(B) the provision of eyeglasses and other visual aids;

"(C) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(D) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(E) guide services, reader services, and transportation;

"(F) any other appropriate services designed to assist an older individual who is blind in coping with daily living activities, including supportive services or rehabilitation teaching services; and

"(G) other independent living services.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a designated State unit shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including the information and assurances described in paragraph (2), and shall obtain approval of the application.

"(2) CONTENTS.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 703.

"(d) GRANTS TO AGENCIES OR ORGANIZATIONS.—A designated State unit may use funds received under a grant described in subsection (a) to make grants to public or nonprofit private agencies or organizations to—

"(1) conduct activities that will improve or expand services for older individuals who are blind and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services and related services in accordance with subsection (b) to older individuals who are blind.

"(e) DEFINITION.—For purposes of this section, the term [''older individual who is blind''] *"older individual who is blind"* means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs."; and

(C) in the last sentence, by striking "five" and inserting "a majority of"; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) TERMS.—Section 400(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2) No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.".

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and administration of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities," and inserting "practices, procedures,".

(3) in paragraph (5), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(4) in paragraph (6)—

(A) by inserting "with respect to the duties described in paragraphs (1) through (5) and in paragraph (9)," after "(6)";

(B) by striking "and" after "the Secretary,"; and

(C) by striking "respecting ways" and all that follows and inserting "and other officials of Federal executive agencies, respecting ways to better promote the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(5) in paragraph (7), by striking "(A)" and all that follows and inserting "a summary of the activities and accomplishments of the Council;";

(6) in paragraph (8), by striking the period and inserting "; and"; and

(7) by adding at the end the following:

"(9) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401 is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than October 30, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of Congress, a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education.

"(3) The report shall assess the status of the Nation in achieving the policies set forth in subparagraphs (A) and (B) of section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall include recommendations for policy changes.

"(4) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report in accordance with paragraph (3), the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

(c) 1995 REPORT.—The National Council on Disability shall include, in a report submitted not later than October 30, 1995 in accordance with section 401(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 781(b)(1)), information and analysis concerning the implementation by the designated State agencies and the Department of Education of the amendments made by Rehabilitation Act Amendments of 1992.

SEC. 403. COMPENSATION OF MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "at a rate equal to the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 404. COMPENSATION OF STAFF.

(a) NUMBER OF POSITIONS.—Section 403(a)(2) (29 U.S.C. 783(a)(2)) is amended by striking "not to exceed seven" and inserting "seven or more".

(b) RATE OF PAY.—Section 403(b)(1) is amended by striking "not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

TITLE V—ACCESS

SEC. 501. ACCESS.

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—ACCESS".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—ACCESS".

SEC. 502. EFFECT ON EXISTING LAW.

(a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons or the Director or Chairman shall serve as sole chairperson, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least one-half"; and

(B) in subparagraph (B), by adding at the end the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS-18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(c) FUNCTION.—Section 502(b) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service) including enforcing all standards under such Act, and ensuring that all waivers and modifications to standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislation and administration as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5) of this subsection; and

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "In carrying out its functions under this Act, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for profit organizations, carry out its functions under subsections (b) and (c) of this section, and" and inserting "The Access Board"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) is amended—

(1) by striking "The departments" and inserting the following:

"(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in paragraph (2), as so designated by paragraph (1)—

(A) by striking "subsection" and inserting "paragraph" in the second sentence; and

(B) in the second sentence—

(i) by striking "Secretary" and inserting "Chairperson"; and

(ii) by striking "the daily pay rate for a person employed as a GS-18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(f) REPORT.—Section 502(g) is amended—

(1) by inserting "(1)" after "(g)";

(2) in paragraph (1), as so designated by paragraph (1) of this subsection—

(A) in the second sentence, by striking "clauses (5) and (6)" and inserting "paragraphs (7) and (8)"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) is amended—

(1) by striking paragraph (1) and all that follows through "(2)" and inserting "(1)";

(2) in paragraph (1), as so redesignated by paragraph (1) of this subsection, by striking the second and third sentences; and

(3) by adding at the end the following:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered to be a gift, devise, or bequest to the United States.

"(B) The Access Board shall issue regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in the program.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) is amended by striking "fiscal years 1987 through 1992" and inserting "fiscal years 1993 through 1997".

SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "$2,500" each place the term appears and inserting "$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".

(b) WAIVER.—Section 503(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

"(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.".

(c) STANDARDS AND PROCEDURES.—Section 503 is amended by adding at the end the following:

"(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.

"(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.".

SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.

Section 504 is amended by adding at the end the following new subsection:

"(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 507. SECRETARIAL RESPONSIBILITIES.

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting "Access" before "Board" each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(c) COMPENSATION.—Section 506(b) is amended by striking "the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332" and inserting "the rate specified for level V of the Executive Schedule under section 5316".

(d) CONFORMING AMENDMENT.—Section 506(c) is amended by striking "502(h)(2)" and inserting "502(h)(1)".

SEC. 508. INTERAGENCY COORDINATING COUNCIL.

The first sentence of section 507 (29 U.S.C. 794c) is [amended—]

[(1)] *amended* by striking "Chairperson of the Office of Personnel Management" and inserting "Director of the Office of Personnel Management"[; and

(2) by inserting "Access" before "Board"]

SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

"(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce and have access to information and data comparable to the access of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines.".

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PILOT PROGRAM.

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking "section 7(8)" and inserting "section 7(8)(A)".

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 603. DEFINITIONS.

Section 616 (29 U.S.C. 795e) is amended—

(1) by striking "; and" at the end of paragraph (2) and inserting a period; and

(2) by striking paragraph (3).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

SEC. 605. PROJECTS WITH INDUSTRY.

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job opportunities and the skills needed to perform such jobs, to create practical job readiness and training programs, and to provide job placements.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job availability within the community;

"(iii) identify the skills necessary to perform the jobs identified; and

"(iv) prescribe training programs designed to develop job skills appropriate for the jobs in individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment in the competitive market;

"(C) provide job placement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of services provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from the co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (i) of section 621 are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2)(A) The Commissioner shall to the extent practicable assure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are not currently served or are underserved by projects.

"(B) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable.

"(3) The Commissioner shall review each annual evaluation report submitted under subsection (b)(3) and, using indicators described in subsection (f)(1), make a determination concerning the termination, modification, or renewal of each grant under this section.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) The Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which

grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h)(1) Consistent with the purpose of this section, the Commissioner may award grants to partnerships or consortia that include private business concerns or industries to assist the partnerships or consortia in developing and carrying out model demonstration projects for workers with disabilities to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) Grants awarded under this subsection shall be for a 3-year period.

"(3) Any partnership or consortia desiring a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) providing assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of subsection (a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) an evaluation report containing data specified by the Commissioner will be submitted at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(4) Federal payments under this subsection with respect to any project may not exceed 80 percent of the costs of the project.

"(i) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) Except as used in subsection (h), the term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"(4) The term 'workers with disabilities' shall mean more than one individual with a disability who—

"(A) is working in competitive employment; and

"(B) needs new or upgraded skills to—

"(i) improve the employment opportunities of the individual; and

"(ii) adapt to emerging technologies, work methods, and markets.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 623 (29 U.S.C. 795i) is amended by striking "$16,070,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 607. SUPPORTED EMPLOYMENT.

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

"SEC. 632. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that no State shall receive—

"(A) less than $250,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) for a fiscal year in which the amounts appropriated to carry out this part exceed by not less than $1,000,000 the appropriations made to carry out this part in fiscal year 1992, less than $300,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) OTHER JURISDICTIONS.—

"(A) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"(B) MINIMUM ALLOTMENT.—Each of the jurisdictions described in subparagraph (A) shall be allotted not less than one-eighth of 1 percent of the amounts appropriated for each such jurisdiction for the fiscal year for which the allotment is made, except that Palau shall be allotted not less than such one-eighth for the fiscal year, pending ratification of the Compact of Free Association.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State to carry out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State for such year.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (d) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A) identifies supported employment as the appropriate rehabilitation objective for the individual.

"SEC. 635. STATE PLAN.

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency such State designated under section 101(a)(2)(B) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment of the rehabilitation needs of individuals with severe disabilities conducted under section 101(a)(5), with respect to the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of efforts to identify and make arrangements with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments conducted under section 102(b)(1)(A) and funded under title I of individuals with severe disabilities will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilita-

tion program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided onsite; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

"SEC. 637. SAVINGS PROVISION.

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

SEC. 701. CENTERS AND SERVICES.

(a) PROGRAMS.—The Act is amended by striking title VII (29 U.S.C. 796 et seq.) and inserting the following new title:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this title is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to develop and support statewide networks of centers for independent living;

"(2) providing financial assistance to States for providing, expanding, and improving the provision of independent living services; and

"(3) providing financial assistance to States to improve working relationships among—

"(A) centers for independent living;

"(B) Statewide Independent Living Councils established under section 704;

"(C) State vocational rehabilitation programs receiving assistance under title I;

"(D) State programs of supported employment services receiving assistance under part C of title VI;

"(E) client assistance programs receiving assistance under section 112;

"(F) programs receiving assistance under other titles of this Act;

"(G) programs receiving assistance under other Federal programs; and

"(H) programs receiving assistance through non-Federal sources.

"SEC. 702. DEFINITIONS.

"As used in this title:

"(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

"SEC. 703. STATE PLAN.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to receive financial assistance under this title, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such information as the Commissioner may require, including, at a minimum, the information required under this section.

"(2) SUBMISSION.—The plan shall be jointly signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) REVIEW AND REVISION.—The plan shall provide for the review and revision, not less often than once every 3 years, of the plan to ensure the existence of appropriate planning, financial support, coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the development and support of a statewide network of centers for independent living;

"(B) the provision of independent living services; and

"(C) working relationships among—

"(i) such centers and services; and

"(ii) the vocational rehabilitation program established under title I and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this title until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 704.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this title based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this title.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this title to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this title to meet such objectives.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 724.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, the State plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) WORKING RELATIONSHIPS.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the Statewide Independent Living Council and centers for independent living; and

"(2) the designated State unit, other State agencies represented on the Statewide Independent Living Council, councils that ad-

dress the needs of specific disability populations and issues under other Federal law, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION BETWEEN CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES.—The plan shall describe how services provided under part B will be coordinated with, or complement, services provided under part C.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—The plan shall set forth steps to be taken regarding outreach to unserved and underserved populations with respect to services provided under this title and centers funded under this title.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this title will—

"(1) notify all individuals seeking or receiving services under this title about the availability of the Client Assistance Program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this title;

"(4)(A) keep such records, as the Commissioner may determine to be appropriate including records that fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

"(B) afford such access to such records, and submit such reports with respect to information contained in such records, as the Commissioner may determine to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives to be achieved under the plan, including evaluation of satisfaction by individuals with disabilities.

"(o) ADMINISTRATIVE COSTS.—The plan shall include an assurance that the designated State agency will not use more than 5 percent of the financial assistance made available under this title to pay for the administrative costs of carrying out this title. Funds used to support the resource plan for the Statewide Independent Living Council under section 704(e) shall not be considered to be used to pay for such administrative costs.

"SEC. 704. INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this title, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF THE COUNCIL.—The Council shall—

"(1) develop and submit (in conjunction with the designated State agency) the State plan required by this title;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under part B of this title and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"SEC. 705. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 703 that the Commissioner determines meets the requirements of section 703, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 703.

"(B) APPLICATION.—For purposes of the application describe in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 703.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 724.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards set forth in section 724. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this title.

"SEC. 706. AUTHORIZATION OF APPROPRIATIONS.

"(a) INDEPENDENT LIVING SERVICES.—There are authorized to be appropriated to carry out part B such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(b) CENTERS FOR INDEPENDENT LIVING.—There are authorized to be appropriated to carry out part C such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—There are authorized to be appropriated to carry out part D such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(C) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B), or under subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

"(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF FUNDS.

"The State shall use funds received under this part to provide the resources described in section 704(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and

local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to unserved and underserved populations with respect to services provided under this title.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (e).

"(b) RESERVATION FOR TRAINING AND TECHNICAL ASSISTANCE.—

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, the lesser of—

"(A) the amount of the excess; or

"(B) $550,000 or 2 percent of such funds, whichever is greater.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $3,500,000, the allotment to any State under subparagraph (A) shall be not less than $500,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $500,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts; and

"(ii) if such excess is less than $3,500,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (1)(C) and (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(d) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (c)(1)(B), or under subsection (c)(1)(C) as increased under subsection (c)(3), or to provide allotments under subsection (c)(2) as increased in accordance with subsection (c)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (c)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $500,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(3).

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"(f) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Secretary shall first reserve from the funds appropriated to carry out this part, $550,000 or 2 percent of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies and organizations described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts

under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993 such agencies will meet the standards described in section 724(b) and that contain the assurances described in section 724(c). In determining whether a center meets the standards described in section 724(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 724; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently not served, or are underserved, by independent living programs, consistent with the provisions of the State plan submitted under section 703 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State

unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 724;

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 703 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 724 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of a State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this title and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall assist in the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this title.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner

may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 703;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a severe disability on the same terms and conditions required with respect to the employment of individuals with a disability under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disability receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the Client Assistance Program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach unserved and underserved populations of individuals with severe disabilities;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (7);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (7) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 703(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 725. DEFINITIONS.

"As used in this part, the terms 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 726. CENTERS OPERATED BY STATE AGENCIES.

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(f)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 727. EFFECTIVE DATE.

"The provisions of this part shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of the Rehabilitation Act of 1973, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 731. PURPOSE.

"It is the purpose of this part to support systems to protect the legal and human rights of individuals with disabilities whose request for services cannot be addressed by, or who are ineligible for, the Client Assistance Program under section 112 and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 6041 et seq.) (referred to in this part as 'protected individuals').

"SEC. 732. PROGRAM AUTHORIZATION AND ALLOTMENTS.

"(a) TECHNICAL ASSISTANCE.—From the amount appropriated to carry out this part for a fiscal year, the Secretary shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this part.

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part is less than $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot an equal amount to each eligible system, except as provided in paragraph (3).

"(3) ELIGIBILITY.—An eligible system that received funds from appropriations for fiscal year 1992 to carry out part D of title VII of this Act, as in effect on the day before the date of enactment of this section, shall not be eligible for such allotments under this part for fiscal year 1993 unless the amount of the allotment as determined in paragraph (2) is greater than the amount of funds received by such system for such year under such part.

"(4) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part equals or exceeds $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot to each eligible system within a State an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States. Except as provided in paragraph (3), the allotment to any system under the preceding sentence shall not be less than $100,000 or one-third of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this part for any fiscal year that is less than $100,000 or one-third of 1 percent of such remainder shall be increased to the greater of the two amounts.

"(3) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States and shall each be al-

lotted not less than $50,000 for the fiscal year for which the allotment is made.

"(d) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (2) and (3) of subsection (a) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(1) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(2) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—The amount of an allotment to a State for a fiscal year under subsection (b) or (c) that the Secretary determines will not be required by the State during the period for which the allotment is available for the purpose for which it was allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made.

"(2) PROPORTION.—The amount shall be available for reallotment to such States, except as provided in paragraph (3) in proportion to the original allotments of such States for such fiscal year.

"(3) REDUCTION.—The sum to be reallotted to a State under paragraph (2) shall be reduced to the extent the sum exceeds the sum the Secretary estimates such State needs and will be able to use during such fiscal year. The total of such reduction shall be similarly reallotted among the States whose sums were not so reduced. Any such amount reallotted to a State under this subsection for a fiscal year shall be deemed to be part of the allotment of the State for such fiscal year.

"SEC. 733. ELIGIBILITY FOR ASSISTANCE.

"As used in this part, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act and that meets the requirements of section 734.

"SEC. 734. SYSTEM REQUIREMENTS.

"(a) ELIGIBILITY.—To be eligible to receive assistance under this part, a system shall—

"(1) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act;

"(2) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including individuals with disabilities and their representatives, as appropriate, and other persons, an opportunity to comment on the objectives and priorities established and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this part with protection and advocacy programs established under the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986, the Client Assistance Program under section 112, and the State long-term care ombudsmen program established under the Older Americans Act of 1965; and

"(3) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with disabilities have full access to services of the system.

"(b) ASSURANCES.—To be eligible to receive assistance under this part, a system shall provide assurances to the Secretary that funds made available under this part will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided and such additional assurances and information as the Commissioner considers appropriate.

"SEC. 735. DIRECT FUNDING.

"Notwithstanding any other provision of law, the Secretary shall pay directly to any system that complies with the provisions of this part, the amount of the allotment of the system under this part, unless the system designates another entity to receive payment.

"SEC. 736. DELEGATION.

"The Secretary may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. State plan.
"Sec. 704. Independent living council.
"Sec. 705. Responsibilities of the Commissioner.
"Sec. 706. Authorization of appropriations.

"PART B—SERVICES FOR INDEPENDENT LIVING

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers for independent living.
"Sec. 725. Definitions.
"Sec. 726. Centers operated by State agencies.
"Sec. 727. Effective date.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"Sec. 731. Purpose.
"Sec. 732. Program authorization and allotments.
"Sec. 733. Eligibility for assistance.
"Sec. 734. System requirements.
"Sec. 735. Direct funding.
"Sec. 736. Delegation.".

TITLE VIII—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

SEC. 801. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

SEC. 802. CONTINUED OPERATION OF CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;";

(C) by striking "and" after the semicolon in paragraph (3) (as so redesignated by subparagraph (A));

(D) by striking the period in paragraph (4) (as so redesignated by subparagraph (A)) and inserting "; and"; and

(E) by inserting after paragraph (4) (as so redesignated by subparagraph (A)) the following new paragraph:

"(5) maintain a national registry in order to provide information and data regarding individuals who are deaf-blind.".

SEC. 803. AUDIT, MONITORING, AND EVALUATION.

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

SEC. 804. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

SEC. 805. DEFINITIONS.

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or, if there is a field defect, central acuity of 20/200 such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

SEC. 806. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

SEC. 807. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

"(g) DEFINITIONS.—For the purposes of this section:

"(1) ENDOWMENT FUND.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) ENDOWMENT FUND CORPUS.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) ENDOWMENT FUND INCOME.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

SEC. 808. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEAF-BLIND INDIVIDUALS.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 802), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 802(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) DEAF-BLIND YOUTHS AND ADULTS.—

(1) Sections 202(4), 203(a) (as so redesignated by section 802(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

Subtitle B—Other Programs

SEC. 811. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1) of the Small Business Act (15 U.S.C. 644(c)(1)) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind or Severely Disabled".

SEC. 812. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who—

"(A) are involved in providing instruction to individuals who are deaf; and

"(B) are not certified as teachers of such individuals,

to meet the communications needs of such individuals.".

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and on whether the substitution of the term "emotional and behavioral disorders" would be appropriate, or whether some other term should be used.

(3) DEFINITION.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".

(4) REPORT.—The Secretary shall, within 7 months after the end of the comment period, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

SEC. 813. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,".

SEC. 814. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking "handicapped persons" and inserting "persons with disabilities";

(2) by striking "the handicapped" and inserting "such persons";

(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and

(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

AMENDMENT NO. 2935

(Purpose: To provide a substitute)

Mr. MITCHELL. Mr. President, on behalf of Senator HARKIN, I call up an amendment in the nature of a substitute already filed at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. HARKIN, proposes an amendment numbered 2935.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, I rise today in strong support of an amendment in the nature of a substitute to S. 3065, the Rehabilitation Act Amendments of 1992. This is a truly bipartisan, consensus bill. S. 3065 is cosponsored by all 17 members of the Labor and Human Resources Committee: Senators DURENBERGER, KENNEDY, HATCH, SIMON, JEFFORDS, ADAMS, KASSEBAUM, BINGAMAN, DODD, PELL, WELLSTONE, COCHRAN, METZENBAUM, COATS, MIKULSKI, and THURMOND, as well as the distinguished minority leader, Senator DOLE.

The Congressional Budget Office found that the reported bill would affect direct spending and, therefore, would be subject to pay-as-you-go procedures in the amount of $11 million for fiscal year 1993, $14 million for fiscal year 1994, and $15 million for fiscal year 1995. Although I disagree with CBO's conclusion, the amendments eliminate all of the direct spending identified by CBO with the exception of spending for technical assistance grants under section 621(a) of the act, as amended, and spending for the endowment program for the Helen Keller National Center. This direct spending is offset by $2 million in savings from the Higher Education Reauthorization Act.

In sum, this bill, as amended, does not in any way create any new direct spending and, therefore, would not be subject to the pay-as-you-go procedures.

The amendment moves several of the new programs originally set out in titles II, III, and VIB in the reported bill to a new title VIII. It also specifies that there shall be established an account with a distinct designated budget account identification code number in the President's budget for activities under this title. Funding for the such activities shall be available to such extent as is provided, or in such amounts as are provided, in appropriations acts. The account for this title shall be separate and distinct from the accounts for all other activities under titles I through VII of the Rehabilitation Act. The amendment also includes other technical changes that eliminate the direct spending identified by CBO.

I particularly want to acknowledge Senator DURENBERGER for his wisdom and counsel during this reauthorization process. Senator DURENBERGER and Ann Silberman of his staff have worked long and hard on this bill and they deserve credit for their commitment to the consensus building process that made this bill possible. In addition, a number of our distinguished colleagues here in the Senate from both sides of the aisle provided critical input on the bill.

I also want to thank my staff, including Bob Silverstein, Linda Hinton, and Melanie Gabel, for their contribution to this legislation.

During the development of this legislation, we enjoyed the support and constructive guidance of the staff of the Department of Education. The Subcommittee and the administration's staffs met numerous times over the past many months to work out the details of the changes to the bill. Nell Carney, Commissioner of the Rehabili-

tation Services Administration, described this interaction in her testimony before the Subcommittee on Disability Policy and specifically applauded "the excellent spirit of cooperation between our staffs that has characterized the development of your bill."

As we worked on the reauthorization of this legislation, we had the assistance of many organizations, groups and individuals. In particular, I want to express my gratitude to the employment and training task force of the consortium for citizens with disabilities, the Council of State Administrators of Vocational Rehabilitation, the various national, regional, and local independent living organizations, representing rehabilitation service providers and professionals, numerous State agency officials and private citizens whose thoughtful commentary and ideas have been so helpful in this process.

Mr. President, 29 member organizations of the employment and training task force of the consortium for citizens with disabilities signed a letter of support for S. 3065. All of these groups were involved in the dialog that marked the development of the bill. The letter best describes the final results of this productive dialog:

The resulting proposal incorporates important changes to existing authorities which will significantly assist persons with disabilities in achieving their employment and independent living goals. The bill builds on the provisions of the Americans with Disabilities Act, it represents sound public policy, and it will move the field of rehabilitation forward in a rational manner.

Mr. President, I ask unanimous consent that the entire letter from the consortium for citizens with disabilities supporting the Rehabilitation Act Amendments of 1992 be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. HARKIN. On July 26, 1990, the President signed into law the Americans With Disabilities Act of 1990. I am proud to have been the chief sponsor of the ADA. I have referred to the ADA as the 20th century emancipation proclamation for individuals with disabilities. The ADA represents the philosophy of inclusion, empowerment, and elimination of barriers in society that keep persons with disabilities from fully participating in the economic, political, social, cultural, and educational mainstream of American society.

We have just recently celebrated the second annivesary of the passage of the ADA, July 26, 1992. In addition, July 26, 1992, marked the day the provisions in the ADA barring employment discrimination went into effect.

We can all be proud of what we have achieved. But obviously, our work is not done. We cannot rest until we have established a national disability policy that is based on the values and precepts of the ADA.

We need a national disability policy that:

Empowers individuals with disabilities to make meaningful contributions to their family and their community;

Provides individuals with disabilities with the choice to live in their own homes and communities and receive an education, work, and play alongside their nondisabled peers;

Guarantees affordable health care, including the elimination of exclusions for preexisting conditions;

Addresses the need for consumer-directed personal assistance services; and

Provides a Social Security System that rewards independence, not dependence.

The Rehabilitation Act Amendments of 1992 represents the continuation of vital components of our national disability policy. Barring employment discrimination opens the doors of opportunity, but people with disabilities need the skills and support services provided by vocational rehabilitation to enable them to achieve their career goals. And people with disabilities need independent living programs to ensure that they are empowered to control their own lives and be fully included in all aspects of our society.

With the current state of the economy and the high unemployment rate among persons with disabilities, we simply must continue our commitment to meeting the vocational rehabilitation and independent living needs of these individuals.

This bill reauthorizes the Rehabilitation Act of 1973, as amended, and the Helen Keller National Center Act and amends both to improve the operation of the programs and services provided. There are seven basic purposes for this legislation. They are:

To ensure that the values embedded in the Americans With Disabilities Act are reflected in the Rehabilitation Act;

To improve the functioning of the vocational rehabilitation system by streamlining access, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development;

To promote a philosophy of independent living in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities by supporting statewide networks of centers for independent living and assisting States to provide, expand, and improve the provision of independent living services;

To increase consumer choice and involvement at the individual and the system level;

To increase accountability and quality of services provided;

To ensure that the basic formula grant programs remain state-of-the-art by ensuring that the discretionary programs of research, demonstrations, and training respond to identified needs; and

To update the terminology used in the legislation.

I urge my colleagues to join me in support of S. 3065. It represents improvements that are essential if we are to see the dream of the Americans with Disabilities Act become a reality—an America where people with disabilities, including those with severe disabilities, are competitively employed in integrated work settings and are making meaningful contributions to their families and communities.

Mr. President, I ask unanimous consent that the detailed section-by-section analysis of S. 3065 also be included in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF THE REHABILITATION ACT AMENDMENTS OF 1992—S. 3065

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

SUBTITLE A—ADMINISTRATION

I. FINDINGS, PURPOSE, AND POLICY

Section 2 of the bill amends section 2 of the Act to specify findings, purpose, and policy for the entire Act that are consistent with the principles of the Americans with Disabilities Act. The policies include respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities; inclusion, integration, and full participation of such individuals; and support for individual and systemic advocacy and community involvement.

II. DEFINITIONS

Section 102 of the bill amends section 7 of the Act to update current definitions and add several new definitions.

The Federal share is changed to 78.7 percent. Currently, the Federal share is 80 percent for the payments less than the fiscal year 1988 amount received by the State and 75 percent for the excess beginning in fiscal year 1993.

The term "individual with a disability" is updated by including the phrase "can benefit in terms of employment outcome" in lieu of the phrase "reasonably be expected to benefit in terms of employability." The term "employment outcome" is defined.

For purposes of title V, the term "individual with a disability" is also amended by including the exclusions set forth in the Americans with Disabilities Act.

The term "rehabilitation technology" replaces the term "rehabilitation engineering" and the definition is modified to make it clear that "rehabilitation engineering, assistive technology devices, and assistive technology services" are included under the definition.

The term "assessment for determining eligibility and vocational rehabilitation needs" replaces the term "evaluation of rehabilitation potential" and the definition is reorganized to reflect the dual purposes of determining both eligibility and needs. Further,

the definition places a new emphasis on the use of existing data.

The bill adds a definition for the term "personal assistance services." The bill also includes definitions for several terms used with respect to the provisions of supported employment: "supported employment," "supported employment services," "extended services," and "ongoing support services."

The bill also defines the term "impartial hearing officer."

The bill also defines the term "independent living core services" to include information and referral services, independent living skills training, peer counseling, and individual and systems advocacy. The bill also defines the term "independent living services."

The bill also includes the term "transition services" and uses the definition set forth in the Individuals with Disabilities Education Act.

III. CARRYOVER

Section 107 of the bill adds a new section 18 to the Act which authorizes recipients of formula grants to carryover funds, consistent with such authority currently available to education grantees.

IV. CLIENT ASSISTANCE INFORMATION

Section 108 of the bill adds a new section 20 to the Act that clarifies the obligation of all grantees to advise individuals with disabilities and others regarding the availability of client assistance programs.

SUBTITLE B—VOCATIONAL REHABILITATION SERVICES

I. FINDINGS, PURPOSE, AND POLICY

Section 111 of the bill amends section 100 of the Act to include specific findings, purposes, and policy for title I of the Act (the basic program of vocational rehabilitation services). The policy specifies that title I programs must be carried out in a manner consistent with the following principles, among others:

Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment in integrated settings;

Individuals must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals, objectives, and services; and

Accountability measures must facilitate and not impede the accomplishment of program.

II. AUTHORIZATION LEVELS

The bill includes "such sums" as the authorization level for the period of the reauthorization.

III. STATE PLAN

A. Submission of plan. The bill permits a State to submit its plan under this Act to coincide with submission of plans under other acts such as the Individuals with Disabilities Education Act.

B. Order of selection. The bill requires each State to explain the methods by which it will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible. Further, the bill specifies that the State, not the Federal Government, has the authority to adopt criteria for determining which individuals have the most severe disabilities.

C. Rehabilitation technology. The bill clarifies the States' responsibilities with respect to rehabilitation technology.

D. Facilities compliance. The bill requires that community rehabilitation programs comply with section 504 of the Act and the Americans with Disabilities Act.

E. Personnel. The bill provides for the establishment of a comprehensive system of personnel development, including training in the changes made by this bill. The bill also includes the personnel qualification standards currently set forth in the Individuals with Disabilities Education Act.

F. Comparable services. The bill provides that the State agency need not make a determination of the existence of comparable benefits before providing services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits.

G. Use of existing information. The bill provides that, to the maximum extent appropriate and consistent with the requirements under this Act, existing information available from other programs and information provided by the individual or the family must be used.

H. Interagency cooperation. The bill provides for interagency cooperation including, if appropriate, the entering into of cooperative agreements.

I. Review of individuals in extended employment. The bill provides for maximum efforts to promote movement from extended employment to integrated employment, including supported employment.

J. Construction. The bill continues to permit the use of title I funds for construction, but only under special circumstances.

K. Goals and public education. The bill specifies that the State agency must establish policies and methods (including the entering into of interagency agreements with State education agencies) to facilitate the development and accomplishment of long-term rehabilitation goals and goals related to independent living as part of the student's individual education plan and to facilitate the transition to rehabilitation under the responsibility of the State agency.

L. Coordination and improved working relationships with independent living centers and the Statewide Independent Living Council. The bill provides for such coordination.

M. Strategic plan. The bill provides that the State must develop a strategic plan for expanding and improving vocational rehabilitation services on a statewide basis.

N. Evaluation of rehabilitation personnel. The bill provides that a State must develop an accountability system that facilitates the accomplishment of the goals of the legislation, including serving, among others, those with the most severe disabilities and must assure that the system does not impede such accomplishments.

O. Coordination with business and industry. The bill provides that the State must take steps to work with business and industry and disability organizations to expand employment opportunities for individuals with disabilities, including providing training on the ADA.

P. Rehabilitation Advisory Council. The bill specifies that the State must establish an advisory council unless a consumer controlled independent commission is responsible for overseeing the program.

IV. DETERMINATIONS OF ELIGIBILITY

A. In general. Section 113 of the bill clarifies section 102 of the Act. In general, an individual is eligible if he or she is an individual with a disability and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

B. Social Security presumption. An individual who has a disability or is blind as determined under title II or XVI of the Social Security Act shall be considered to have a physical or mental impairment under the first prong of the definition of an individual with a disability.

C. Determinations by other agencies. Determinations by other agencies, particularly education agencies regarding whether an individual is an individual with a disability shall be used to the extent appropriate and available and consistent with the requirements or the Act.

D. Presumption of benefit. The bill provides that it shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services unless the designated State agency can demonstrate by clear and convincing evidence that such individual is incapable of benefiting. In making the demonstration with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State agency must first conduct an extended evaluation.

E. Timelines. The State agency must make eligibility determinations within 60 days unless exceptional and unforeseen circumstances exist that are beyond the control of the State agency and the individual concurs with the extension.

V. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

A. Timeframe. The bill provides that as soon as a determination has been made that an individual is eligible, the State agency must complete a comprehensive assessment (if necessary to determine the goals, objectives, and services to be provided).

B. Joint agreement. The IWRP must be jointly developed, agreed upon, and signed.

C. Contents. The IWRP must be designed to achieve the employment objective of the individual, consistent with his or her unique strengths, priorities, abilities, and capabilities. The IWRP must include a statement of goals and objectives, the specific services to be provided, an evaluation procedure, the terms and conditions under which goods and services are provided, the entity or entities that will provide the services, the process used to provide or procure such services, and a statement by the individual in the individual's own words describing how they were informed about and involved in choosing among alternative goals, objectives, services, entities providing services, and methods used to provide or procure such services.

D. Copy. The individual must be provided a copy of the IWRP and any amendments thereto.

VI. IMPARTIAL HEARING OFFICER

A. Selection. The impartial hearing officer must be selected on a random basis or by agreement between the parties. The pool of qualified hearing officers must be identified jointly by the State agency and the consumer members of the State Rehabilitation Advisory Council.

B. Overturning decision. The director may not overturn or modify a decision that supports the position of the individual unless the decision is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

C. Receipt of services pending administrative review. Pending completion of the administrative review, the individual must continue to receive the services provided under the IWRP.

VII. SCOPE OF VOCATIONAL REHABILITATION SERVICES

Section 114 of the bill amends section 103 of the Act to clarify that vocational rehabilitation services under title I include on-the-job

or other related personal assistance services provided to assist an individual in performing work-related functions necessary to obtain and retain competitive work and fulfill the functions of the job while the individual is actively involved in a rehabilitation program that includes the provision of other authorized services. The bill also specifies that transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and objectives are included as are supported employment services.

VIII. STATE REHABILITATION ADVISORY COUNCIL

Section 116 of the bill adds a new section 105 to the Act that sets forth the policies concerning the State Rehabilitation Advisory Council. The bill provides for the establishment, composition and appointment (including a majority of persons with disabilities and term limits), functions of the Council (advisory in nature), management authority (preparation of resource plan, in consultation with the director of the State agency), conflict of interest, meetings, compensation and expenses, hearings and forums, and use of existing councils.

IX. EVALUATION STANDARDS AND PERFORMANCE INDICATORS

Section 117 of the bill adds a new section 106 to the Act, which provides for the establishment and publication of evaluation standards and performance indicators for the vocational rehabilitation program. The bill provides for public comment. States are required to report the extent to which they are meeting the standards and indicators. If the Commissioner determines that the performance of a State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan.

X. MONITORING AND REVIEW

Section 118 of the bill adds a new section 107 to the Act, which prescribes rules governing the monitoring of programs. The Commissioner must provide for the annual review and periodic onsite monitoring of programs and determine whether the State is complying with the provisions of its State plan and the evaluation standards and indicators.

The bill also includes procedures for review, procedures for monitoring, areas of inquiry, the provision of technical assistance, and the significance of a failure to comply.

XI. REALLOTMENT

Section 119 of the bill amends section 110 of the Act to specify that monies available for reallotment shall remain available for such purpose until reallotted.

XII. MAINTENANCE OF EFFORT

Section 120 of the bill amends section 111 of the Act to modify the maintenance of effort provisions to make them more workable.

XIII. CLIENT ASSISTANCE PROGRAM

Section 121 of the bill amends section 112 of the Act in several respects. First, the bill permits CAPs to provide advocacy on behalf of an individual and provides that a CAP may provide assistance with respect to services that are directly related to facilitating the employment of the individual. Further, the bill clarifies the circumstances under which a redesignation may occur and the minimum allotment may be increased by adopting the policy in the Developmental Disabilities Act pertaining to protection and advocacy systems.

XIV. INNOVATION AND EXPANSION GRANTS

Section 122 of the bill amends section 120 of the Act by redesigning the innovation and expansion grant program (currently not funded). Effective October 1, 1993, the bill provides for the development of a strategic plan and authorizes funding for the following types of uses: improving working relationships between vocational rehabilitation and independent living, increasing the availability of integrated community-based service options through the redesign of existing service options, improving the functioning of the vocational rehabilitation system by increasing the ease of access into the system and the quality of services, and improving the working relationships of State agencies.

In addition, funds may be used to improve the comprehensive system of personnel development to support the training of consumers and business and industry, and to support the advisory council established under this title and the council established under title VII pertaining to independent living.

The formula is not changed (population base) and the minimum allotment is set at $200,000.

XV. REVIEW OF THE FEDERAL DATA COLLECTION SYSTEM

Section 124 of the bill directs the Commissioner to undertake a comprehensive review of the current system for collecting and reporting data under the Act, particularly data on clients of the programs under title I.

XVI. EXCHANGE OF DATA BETWEEN THE DEPARTMENT OF EDUCATION AND THE SOCIAL SECURITY ADMINISTRATION

Section 125 of the bill directs the Department of Education and the Social Security Administration to enter into a memorandum of understanding regarding the exchange of information.

XVII. ISSUANCE OF REGULATION

Section 126 of the bill directs the Secretary to issue regulations regarding the requirements for the implementation of an order of selection under section 101(a)(5)(A), if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

The bill also provides for the issuance of regulations to establish criteria pertaining to the selection of vocational rehabilitation services and the procurement of such services directly by an individual specifying procedures that States must follow to ensure that the services are of sufficient size, scope, and quality and that the costs of such services are reasonable and to prevent fraud, waste, and abuse with respect to the provision of such services.

XVIII. SOCIAL SECURITY REIMBURSEMENT PAYMENTS

Section 127 of the bill provides States with discretion to continue to use money reimbursed by the Social Security Administration for purposes permissible under the Rehabilitation Act until October 1, 1994. After that date, these funds may only be used for title I purposes.

TITLE II—RESEARCH

I. DECLARATION OF PURPOSE

Section 201 of the bill amends section 200 of the Act to incorporate the policy of full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities into the purpose of title II.

The bill adds that there should be a particular emphasis on research and demonstrations that emphasize improving the effectiveness of services authorized under the Act.

The bill emphasizes the dissemination of information generated from activities funded under this title in usable formats to individuals with disabilities and their families, among others.

II. NATIONAL INSTITUTE ON REHABILITATION AND DISABILITY RESEARCH

Section 203 amends section 202 of the Act in the following ways:

A. Report to Congress. The bill clarifies the Director's duty to report to Congress annually and adds a requirement that this report include the activities undertaken to disseminate the findings, conclusions, and recommendations from its activities.

B. Coordination with Attorney General. The Director must coordinate all information, training, or technical assistance activities regarding the Americans with Disabilities Act with the Attorney General.

C. Qualifications of Deputy Director. The bill clarifies that the Deputy Director must meet the same qualifications as the Director.

D. Peer review. The bill clarifies that peer review of research projects should be conducted by qualified peer reviewers including knowledgeable individuals with disabilities and knowledgeable family members of individuals with disabilities, that reviewers should be trained to conduct peer reviews, and that input from individuals with disabilities and their families should be received and considered as part of the review process.

E. Long range plan. The long range plan must be developed with the advice of the Rehabilitation Research Advisory Council established under section 205 and the full participation of individuals with disabilities and their families, organizations representing individuals with disabilities, rehabilitation service providers, and rehabilitation researchers. The plan must specify the plans for widespread dissemination of research results in practical, usable formats to practitioners and individuals with disabilities, including those from multicultural, unserved and underserved populations and their families.

III. RESEARCH

Section 205 of the bill amends section 204 of the Act as follows:

A. In General. The bill incorporates the policy of the Act to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities incorporated into the purpose of the research section and emphasizes research into areas related to the services authorized under the Act.

B. Research and Training Centers. The bill clarifies that grants for centers may be awarded to entities other than institutions of higher education.

The bill requires that the centers must be of sufficient size, scope, and quality to effectively carry out the required activities in an efficient manner consistent with appropriate State and Federal laws and must have the ability to carry out the training activities either directly or through another entity that can provide such training.

The bill includes that center grants are to be for a period of five years except where the grant is made to a new recipient or the grant would support new or innovative research.

C. Rehabilitation Technology Research and Resource Centers. The bill changes the name of the Rehabilitation Engineering Centers to conform with the language changes made in the definitions section of the bill.

The bill retains the focus in current law on research and demonstrations and includes, to

the extent consistent with the nature and type of research being conducted, training of individuals and their families and training of researchers.

The bill includes areas of focus for centers in specified life areas and illustrative functional areas.

The bill requires the centers to have an advisory committee the majority of whose members are individuals with disabilities and their families.

IV. REHABILITATION RESEARCH ADVISORY COUNCIL

Section 205 of the bill establishes the Rehabilitation Research Advisory Council within the Department of Education to advise the Director with respect to research priorities and the development and revision of the long range plan.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

I. DECLARATION OF PURPOSE

Section 301 of the bill amends section 300 of the Act to include training in the purpose section of the title, to delete section 301, Grants for Construction of Rehabilitation Facilities, and to move section 304 dealing with personnel training to the beginning of the title.

II. TRAINING

Section 302 of the bill amends section 304 of the Act in the following ways:

A. In general. The bill adds personnel in rehabilitation technology and supported employment in the general categories of personnel to be trained. Grantees are required to provide a detailed description of the strategies that will be utilized to recruit and train members of minority groups and individuals with disabilities as rehabilitation personnel and to provide training of appropriate personnel in the amendments to the Act and the Americans with Disabilities Act.

B. Payback. The payback provision is amended to shorten the time period for repayment and to increase the opportunities for scholarship recipients to meet the employment requirement in order to forego repayment of the scholarship.

C. Interpreter programs. The cap of twelve such programs is deleted and the training of interpreters for individuals who are deaf-blind is added to the authority.

D. Authorization of appropriations. A 20 percent set-aside for inservice training of personnel in the amendments to the Act and for projects to recruit and retain qualified personnel, to provide for succession planning, and to provide for leadership development and capacity building is included, if the Commissioner can meet the set-aside without reducing funds already committed to other grant recipients.

PART B—SPECIAL DEMONSTRATIONS

The bill provides authority for the Commissioner to fund projects to identify appropriate incentives to vocational rehabilitation counselors, such as weighted case closures, to achieve high quality placements for individuals with severe disabilities.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

I. MEMBERSHIP

A. Recommendations for members. Section 401 of the bill amends section 400 of the Act to require that the President solicit recommendations for the selection of members of the National Council from organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

B. Qualifications. The bill requires that the members of the Council shall be individuals with disabilities or individuals with substantial knowledge or experience relating to disability policy or programs with a majority of the members being individuals with disabilities or family members of individuals with disabilities.

II. PURPOSE

The purpose of the Council is amended to clarify that it is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of disability and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

III. TERMS

The bill provides for three year terms, with no member serving more than two full terms, consecutively.

IV. DUTIES

Section 402 of the bill amends section 401 of the Act to modify the Council's duties in regard to the National Institute on Disability and Rehabilitation Research from establishing general policies to providing advice with respect to policies. The change conforms the policy in the legislation to current practice.

Section 402 of the bill also amends section 401 of the Act to add to the duties of the Council to review and evaluate on a continual basis new and emerging disability policy issues.

V. REPORTS

The Council is to prepare a report by October 30, 1993, and annually thereafter, entitled "National Disability Policy: A Progress Report" including data on various disability issues, assessing the status of the Nation in meeting the policies of the title, and recommendations for policy changes. In addition to this information, the 1995 report is to include information and analysis of the implementation of the amendments made by the Rehabilitation Act of 1992.

VI. STAFF

Section 404 of the bill amends section 403 of the Act to change the number of staff from a maximum of seven to a minimum of seven.

TITLE V—EQUAL ACCESS

I. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES AT THE FEDERAL LEVEL

The bill amends section 501 of the Act to specify that standards used to determine if the section has been violated in a complaint alleging non-affirmative action employment discrimination under this section shall be the standards applied under title I and the employment provisions of title V of the Americans with Disabilities Act.

II. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The bill amends section 502 of the Act by making several technical and conforming amendments. It increases the number of members of the Board and adds the Department of Commerce to the list of agencies represented.

III. EMPLOYMENT UNDER FEDERAL CONTRACTS

The bill amends section 503 of the Act in several respects. First, the bill increases from $2,500 to $10,000 the trigger for the provision. This conforms to the trigger used under Executive Order 11246. Second, the bill clarifies the scope of the provision to make it parallel to the scope of coverage under Executive Order 11246. Third, the bill includes waiver authority currently set forth in regulations implementing section 503 and the Executive Order 11246 and directs the Secretary of Labor to promulgate regulations that set forth the standards used for granting waivers.

Fourth, the bill amends section 503 of the Act to specify that standards used to determine if the section has been violated in a complaint alleging non-affirmative action employment discrimination under this section shall be the standards applied under title I and the employment provisions of title V of the Americans with Disabilities Act.

Finally, the bill directs the Secretary of Labor to develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act. This identical provision is included in the ADA.

IV. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS

The bill amends section 504 of the Act to specify that standards used to determine if the section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I and the employment provisions of title V of the Americans with Disabilities Act.

V. ELECTRONIC EQUIPMENT ACCESSIBILITY

The bill updates section 508 of the Act. Current law refers to dates and deadlines that have already been met, and fails to take into account technological changes that have occurred and that are likely to occur in the future. It focuses on hardware, while the issues regarding electronic accessibility have shifted to software, interface systems and operating systems. Updating section 508 will ensure that persons with disabilities have comparable access to electronic information and data.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

PART A—COMMUNITY SERVICE EMPLOYMENT PILOT PROGRAMS

The bill amends part A to make conforming language changes.

PART B—PROJECTS WITH INDUSTRY

I. ELIGIBILITY

Section 605 of the bill amends section 621 to clarify who is eligible to receive services from Projects with Industry grantees. The individual must be determined by the designated State unit to be an individual with a disability as defined in section 7(8)(A) or an individual with a severe disability as defined in section 7(15)(A). The State unit is to rely on the determination made by the grant recipient to the extent appropriate and available and consistent with the requirements of the Act. If the designated State unit does not make a determination within 60 days, the individual will be considered eligible.

II. TERMINATIONS

The bill includes in the items to be reported annually the number of project participants who were terminated from project placements and the duration of such placements.

III. TECHNICAL ASSISTANCE

The bill includes authority for the Commissioner to include, as part of the agree-

ments with grant recipients, authority to provide technical assistance to employers regarding hiring of individuals with disabilities, improving relationships with Projects with Industry, and understanding and meeting the requirements of the Americans with Disabilities Act as it relates to employment of individuals with disabilities.

PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

The bill strikes the current part C and inserts the following. Key definitions are set out in title I of the bill.

I. PURPOSE

The purpose of this part is to provide grants, in addition to grants for vocational rehabilitation under title I, to assist States to provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

II. ALLOTMENTS

Funds are allocated on the basis of relative population, with minimum of $250,000 (current law) or $300,000 if the appropriation increases by $1 million or more over the fiscal year 1992 level.

III. AVAILABILITY OF SERVICES

Funds provided under this part may be used to provide supported employment services. Funds provided under this part, section 311(c) and 311(d), and title I may not be used to provide extended services to individuals who are eligible under this part or title I.

IV. ELIGIBILITY

An individual is eligible under this part to receive supported employment services if the individual is eligible for vocational rehabilitation services, the individual is determined to be an individual with the most severe disabilities, and a comprehensive assessment done under title I identifies supported employment as the appropriate rehabilitation objective for the individual.

V. STATE PLAN

A. State plan supplement. To be eligible under this part, the State must submit to the Commissioner a supplement to its State plan.

B. Contents. Each supplement must, among other things:

Designate the designated State agency as the agency to administer the program;

Describe the supported employment services to be provided;

Demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services and extended services;

Provide assurance that an individualized written rehabilitation program will be developed and updated in order to specify the supported employment services to be provided, the expected extended services needed, and the source of extended services, which may include natural supports, or, to the extent that it is not possible to identify the source of the extended services at the time the IWRP is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available.

To the extent jobs skills training is provided, the training will be provided on-site; and

Supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of the individual.

VI. RESTRICTION

State agencies must collect client information separately for supported employment clients under this part and for supported employment clients under title I.

VII. SAVINGS PROVISIONS

Nothing in this part shall be construed to prohibit a State from providing discrete post employment services under title I to an individual who is eligible under this part.

VIII. AUTHORIZATION OF APPROPRIATIONS

The bill includes "such sums" for all years.

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

Title VII of the Act is completely revised.

PART A—GENERAL PROVISIONS

I. PURPOSE

The purpose of the title is to promote a philosophy of independent living by providing financial assistance to States to provide, expand, and improve the provision of independent living services; providing financial assistance to develop and support a statewide networks of centers for independent living; and providing financial assistance to States to improve working relationships among related programs.

II. DEFINITIONS.

A. Center for independent living. The term means a consumer-controlled, community-based, cross-disability, nonresidential, private non-profit agency that is designed and operated within a local community by individuals with disabilities and provides an array of independent living services.

B. Consumer control. The term means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

C. Independent living services and independent living core services are defined in title I of the bill.

III. STATE PLAN

A. Eligibility. To be eligible for assistance under title VII, a State must submit to the Commissioner a State plan that is jointly signed by the director of the State agency and the chairperson of the Statewide Independent Living Council acting on behalf of and at the direction of the Council.

B. Council. The plan must provide for the establishment of a Statewide Independent Living Council.

C. Designation of State unit. The plan must designate the vocational rehabilitation agency as the agency that accounts for and disburses the Federal funds received by the State under the title.

D. Objectives. The plan must specify the objectives to be achieved and explain how they are consistent with and further the purposes of the title.

E. Independent living services. The plan must provide that independent living services will be provided in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such plan is unnecessary.

F. Scope and arrangements. The plan must describe the extent and scope of independent living services to be provided.

G. Network. The plan must set forth a design for the establishment of a statewide network of centers that complies with the standards and assurances specified in part C.

H. Centers. In States in which State funding for centers equals or exceeds the Federal allotment, the State plan must include policies governing the awarding of grants to centers and oversight of such centers.

I. Working relationships. The plan must set forth the steps that will be taken to maximize cooperation, coordination, and working relationships among concerned parties.

J. Coordination between services and centers. The plan must describe how services provided under part B will be coordinated with and complement services provided by centers under part C.

K. Coordination between centers and services funded from Federal and State sources. The State plan must describe efforts to coordinate Federal and State funded centers and services.

L. Outreach. The plan must set forth steps to be taken regarding outreach to unserved and underserved populations.

M. Assurances. The plan must include specified assurances, including fiscal control and fund accounting.

N. Evaluation. The plan must establish a method of periodic evaluation.

O. Administrative costs. The plan must include an assurance that the designated State agency shall not use more than 5 percent of the assistance made available under the title to pay for the administrative costs of carrying out this title. The 5 percent limitation does not apply to costs and expenses incurred with respect to the functioning of the Statewide Independent Living Council.

IV. INDEPENDENT LIVING COUNCIL

A. Establishment. Each State must establish a Statewide Independent Living Council.

B. Composition and appointment. Members of the Council must be appointed by the Governor or the appropriate entity within the State responsible for making appointments after soliciting recommendations from the disability community. The Council must include at least one director of a center chosen by the directors of the centers within the State and additional members from specified categories.

Members must provide statewide representation, represent a broad range of individuals with disabilities, and be knowledgeable about centers and independent living services. Further, a majority of the members must be persons with disabilities. Members shall serve three year terms and no member may serve more than two consecutive full terms.

C. Functions of the Council. Functions of the Council include: developing and submitting (in conjunction with the designated State unit) the State plan, monitoring implementation, coordination with other entities, and submitting periodic reports.

D. Hearings and forums. The Council is authorized to hold hearings and forums.

E. Management authority. Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council from amounts under part B of title VII and part C of title I, and other public and private sources.

F. Compensation and expenses. The Council may use funds to reimburse members for forfeited wages and travel expenses.

G. Use of existing councils. The State may use existing councils for the first year and then must establish a council that fully meets the requirements of this section.

V. RESPONSIBILITIES OF THE COMMISSIONER

A. Approval of State plans. The Commissioner shall approve State plans.

B. Indicators. Not later than October 1, 1993, the Commissioner shall develop and publish indicators of minimum compliance consistent with the standards set forth in this title.

C. On-site compliance reviews. The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers.

VI. AUTHORIZATION OF APPROPRIATIONS

The bill includes "such sums" for part B (services), part C (centers), and part D (protection and advocacy).

PART B—INDEPENDENT LIVING SERVICES

I. ALLOTMENTS

In general, funds will be allotted on the basis of population. The bill includes a minimum allotment of $275,000 or ⅓ of 1 percent of such funds. However, the bill includes a hold harmless so that no State receives less than the amount the State received in fiscal year 1992 under part A, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992. The bill also provides for an increase in the minimum allotment on a proportionate basis.

II. PAYMENTS TO STATES FROM ALLOTMENTS

From the allotment to each State, the State shall be paid the Federal share (90 percent).

III. AUTHORIZED USES OF FUNDS

The State shall use funds under part B to pay for the resources described in the plan pertaining to the operation of the Statewide Independent Living Council and may use funds for the following uses, among others: to provide independent living services; to demonstrate ways to expand and improve independent living services; to support the operation of centers; to support the development of comprehensive approaches or systems for providing independent living; to conduct analyses; to train individuals with disabilities and others regarding the independent living philosophy, and to provide outreach.

PART C—CENTERS FOR INDEPENDENT LIVING

I. PROGRAM AUTHORIZATION

A. 1994 and subsequent fiscal years. The bill includes a reservation for training and technical assistance. In any fiscal year in which the amount of funds appropriated to carry out part C exceed the amount appropriated for fiscal year 1993, the Commissioner shall reserve the lesser of the amount of the excess or $550,000 or 2 percent, whichever is greater.

The funds are to be allocated among the States on the basis of population except as described in the following sentences. First, a State's allotment may not be less than the amount of financial assistance received by centers in the State for fiscal year 1993. Second, if the appropriations exceed the fiscal year 1992 amount by $3.5 million, the minimum allotment shall be $500,000 or one-third of 1 percent of such sums, whichever is greater. If less than $3.5 million, the minimum allotment shall approach, as nearly as possible, the minimum specified in the previous sentence. The minimum allotment shall be adjusted in accordance with the same policy applicable to independent living services under part B.

B. Transition rules for fiscal year 1993. For fiscal year 1993, the Commissioner shall first reserve from the amounts appropriated to carry out this part $550,000 or 2 percent, whichever is greater for training, technical assistance, and transition assistance. After the above reservation is made, the Secretary must make grants to nonprofit agencies that received grants for fiscal year 1992 under part B as in effect on the day before the date of enactment of this bill, if they comply with the standards and assurances in the bill.

II. GRANTS TO CENTERS IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING

A. Establishment. In any fiscal year in which the amount of State funds that are earmarked by a State to support the general operation of centers is less than the Federal allotment, the Commissioner shall make grants directly to eligible agencies within the State.

B. Eligible agencies. In States with approved plans, the Commissioner may make grants to eligible agencies.

C. Existing eligible agencies. The Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in this part.

D. New centers. If there is no center serving a region of the State or a region is underserved, and the increase in the State's allotment is sufficient to support an additional center, the Commissioner may award a grant to the most qualified applicant, consistent with the provisions of the State plan. The bill includes criteria for making the selection and includes guidance to the Commissioner regarding the order of priorities in allocating funds among centers within a State.

Centers receiving support for the general operation of the center from part B (formerly part A) are not considered "existing centers" and are thus eligible to compete as "new centers."

E. Periodic review. The Commissioner must review each center periodically to ensure compliance with standards and assurances. If found to be in noncompliance, the Commissioner must terminate all funds 90 days after the date of notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

III. GRANTS TO CENTERS IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING

A. Establishment. For any preceding fiscal year in accordance with regulations issued by the Commissioner in which the amount of State funds that are earmarked by a State to support the general operation of centers equaled or exceeded the amount of Federal funds allotted to the State and for any subsequent fiscal year, the director of the designated State unit may award grants to eligible agencies (if it submits an application demonstrating that it has met or exceeded the minimum amount). In subsequent years, the State may retain this authority if it maintains this level. If it does not, the State loses its eligibility to administer the program.

If the designated State agency chooses not to exercise its discretion, the Commissioner shall make the grants directly in accordance with the previous section.

B. Eligible agencies. In States with approved plans, the State agency may make grants to eligible agencies.

C. Existing eligible agencies. The director of the State agency shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in this part.

D. New centers. If there is no center serving a region of the State or a region is underserved, and the increase in the State's allotment is sufficient to support an additional center, the director may award a grant to the most qualified applicant, consistent with the provisions of the State plan.

In selecting from among eligible agencies in awarding grants for new centers, the director of the designated State unit and the chairperson of or other individual designated by the Council, acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that must rank applications. The peer review committee must use the criteria contained in the bill for making its recommendations. The director must make the award on the basis of the recommendations of the peer review committee, if the actions of the committee are consistent with Federal and State law.

The bill also includes guidance to the director regarding the order of priorities in allocating funds among centers within a State.

E. Review. The director must periodically review each center to determine whether the center is in compliance with the standards and assurances. The director must notify the center if it is found to be in noncompliance. The Director shall terminate all funds 90 days after the date of notification by the State director or, if the center requests an appeal to the commissioner, the date of a final decision unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director or, if appealed, by the Commissioner.

F. On-site compliance review. The director must conduct on-site compliance reviews composed of a team that includes at least one person who is not an employee of a State agency, who has experience in the operation of centers, and who is jointly selected by the director of the State agency and the chairperson or other person designated by the Council acting on behalf of and at the direction of the Council.

G. Adverse actions. If the director of the State agency proposes to take a significant adverse action against a center, the center may seek mediation and conciliation by an individual who is free of conflicts identified by the Council. If the issue is not resolved, the center may appeal to the Commissioner.

IV. CENTERS FOR INDEPENDENT LIVING

Centers must comply with the standards and assurances set forth in this section, including the assurance that the center will have a board that is the principal governing body of the center and a majority of which is composed of individuals with severe disabilities.

V. SPECIAL PROVISIONS

The bill includes a special provision allowing a center for independent living that was operated directly by the State on the day before the date of enactment of the Rehabilitation Act Amendments of 1992 to continue to operate the center if there are no applications submitted by nonprofit agencies in the State and the center is otherwise in compliance with the standards and assurances included in the legislation (other than the provision that the recipient be a nonprofit agency).

VI. EFFECTIVE DATE

Awards made to centers before October 1, 1992, may be carried out in accordance with the requirements of law in effect prior to the enactment of the Rehabilitation Act Amendments of 1992.

PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

I. PURPOSE

The purpose is to support systems to protect the legal and human rights of individuals with disabilities whose request for services cannot be addressed by or who are ineligible for the client assistance program and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

II. PROGRAM AUTHORIZATION AND ALLOTMENTS

If the amount of the appropriation is less than $5.5 million each State receives a proportionate share after reserving funding for training and technical assistance. If the appropriation level exceeds $5.5 million, after the reservation for training and technical assistance, the remainder shall be distributed in accordance with population with a minimum allotment of $100,000 or one-third of 1 percent.

III. ELIGIBILITY FOR ASSISTANCE

"Eligible systems" means a protection and advocacy system that is established under part C of the Developmental Disabilities Act.

IV. SYSTEM REQUIREMENTS

To be eligible, a system must have the same general authorities as are set forth in part C of the Developmental Disabilities Act, develop a statement of objectives, and establish a grievance procedure and assure that funds will supplement and not supplant non-Federal funds.

V. DIRECT FUNDING

The Secretary shall pay directly to any system that complies with the provisions of this part the amount of the allotment, unless the system designates another entity to receive the payment.

VI. DELEGATION

The Secretary may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

TITLE VIII—SPECIAL RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

Title VIII adds a new title to the Act for special research, training, and demonstration projects. The bill establishes an account with a distinct designated budget account identification code number in the President's budget for activities under this title. Funding for such activities shall be available to such extent as is provided, or in such amounts as are provided, in appropriations Acts. The account for this title shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

I. DEMONSTRATION PROJECTS

A. Client choice demonstrations. The bill provides authority for the Commissioner to fund projects to demonstrate ways to increase client choice in the rehabilitation process including the choice of providers of vocational rehabilitation services.

B. Transition demonstrations. The bill provides authority for the Commissioner to fund projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community.

C. Improvements of management and service delivery systems. The bill provides authority for the Commissioner to fund studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

D. Job retention/career advancement demonstrations. Consistent with the purpose of section 621, Projects with Industry, the bill authorizes the Commissioner to award grants for model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets.

II. TRAINING INITIATIVES

A. Rehabilitation training projects. Section 803 of the bill includes authority for grants to address unmet and emerging training needs including the training needs of supported employment program personnel, client assistance program personnel, independent living center personnel, and rehabilitation technology personnel, and the training needs of impartial hearing officers.

B. Training and information grants. The bill includes authority to establish training and information programs for individuals with disabilities and their parents, family members, guardians, advocates, or authorized representatives to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities.

C. Braille training grants. The bill authorizes grants for training in the use of Braille for personnel providing rehabilitation services or educational services to individuals who are blind.

III. RESEARCH INITIATIVES

A. Rehabilitation Technology Research and Resource Center. The bill authorizes a Rehabilitation Research and Resource Center in an area of focus not identified in section 204(b)(2) and shall conduct research or demonstration activities relating to emerging program trends and technologies, based on public input and the recommendation of the Rehabilitation Research Advisory Council established under section 205.

B. Model Systems. The bill authorizes grants to establish model systems of comprehensive service delivery for individuals with severe disabilities similar to the spinal cord injury program.

C. Model Personnel Assistance Services Systems. The bill authorizes grants to establish model personnel assistance service systems and other innovation service systems to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

TITLE XI—AMENDMENTS TO OTHER ACTS

SUBTITLE A—HELEN KELLER NATIONAL CENTER

The bill reauthorizes the Helen Keller National Center Act, makes conforming language changes, includes in the definition of an "individual who is deaf-blind" those who are functionally deaf-blind where measurement cannot be accurately made, and authorizes the establishment of the Helen Keller National Center Federal Endownment Fund consistent with other Federal endowment funds.

SUBTITLE B—OTHER PROGRAMS

I. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Section 911 of the bill amends the Wagner-O'Day Act to change the name of the "Committee for Purchase from the Blind and Other Severely Handicapped" to the "Committee for Purchase from People Who Are Blind or Severely Disabled."

II. INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Section 912 of the bill amends section 631(a) of the Individuals with Disabilities Education Act to transfer the authority of the Secretary to provide training or retraining of regular education teachers in the communication needs of individuals who are deaf from the Rehabilitation Act to the Individuals with Disabilities Education Act.

The bill also provides for a notice of inquiry relating to the definition of the term "seriously emotionally disturbed."

III. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988

Section 913 of the bill amends section 221(A)(1) of the Technology-Related Assistance for Individuals with Disabilities Act of 1988 to make conforming language changes.

IV. PRESIDENT'S COMMITTEE ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Section 914 of the bill amends the "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week" to make technical and conforming changes.

EXHIBIT 1

CONSORTIUM FOR CITIZENS WITH DISABILITIES,
July 28, 1992.

Senator TOM HARKIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: The undersigned members of the Employment and Training Task Force of the Consortium for Citizens with Disabilities (CCD) are pleased to support the Senate bill for reauthorization of the Rehabilitation Act. Under your leadership as Chairman of the Subcommittee on Disability Policy, and that of Senator David Durenburger, Ranking Minority Member of the Subcommittee on Disability Policy, this bill was developed with significant input and dialogue with the disability community. The resulting proposal incorporates import changes to existing authorities which will significantly assist persons with disabilities in achieving their employment and independent living goals. The bill builds on the provisions of the Americans With Disabilities Act, it represents sound public policy, and it will move the field of rehabilitation forward in a rational manner.

The undersigned members of the CCD Employment and Training Task Force strongly support the Senate bill and urge its adoption and passage by the full Senate as soon as possible.

Sincerely,

American Academy of Physical Medicine and Rehabilitation.

Amerian Congress on Rehabilitation Medicine.

American State of the Art Prosthetic Association.

Amputee Coalition of America.

Conference of Educational Administrators Serving the Deaf.

Convention of American Instructors of the Deaf.

Council of State Administrators of Vocational Rehabilitation.

Epilepsy Foundation of America.

Goodwill Industries of America.

International Association of Psychosocial Rehabilitation.

Learning Disabilities Association.
National Alliance for the Mentally Ill.
National Association of Developmental Disabilities Councils.
National Association of Private Residential Resources.
National Association of Protection and Advocacy Systems.
National Association State Mental Health Program Directors.
National Association State Mental Retardation Program Directors.
National Council on Rehabilitation Education.
National Easter Seal Society.
National Mental Health Association.
National Multiple Sclerosis Society.
National Parent Network on Disability.
National Recreation and Parks Association.
National Rehabilitation Association.
NISH Creating Employment Opportunities for People with Severe Disabilities.
Spina Bifida Association of America.
The Arc (formerly the Association for Retarded Citizen).
The Association for Persons with Severe Handicaps.
United Cerebral Palsy Association, Inc.

Mr. KENNEDY. Mr. President, I welcome Senate passage of S. 3065, legislation that will reauthorize the Rehabilitation Act of 1973. S. 3065 carries forward and improves programs of vital importance to our fellow citizens with disabilities, and I look forward to its speedy enactment into law.

I am pleased to be an original cosponsor of this bill, which has been authored by Senator HARKIN, the chairman of the Disability Subcommittee of the Labor and Human Resources Committee. Senator HARKIN and Senator DURENBERGER, the subcommittee's ranking member, have done a superb job of crafting a bipartisan, consensus reauthorization bill on this complex subject. They engaged in extensive consultation with the disability community, with State officials, and with the Federal Department of Education. S. 3065 was the subject of a hearing in the Disability Subcommittee on June 29 of this year, and was reported favorably by the full Labor Committee on July 29 by unanimous voice vote.

The Rehabilitation Act authorizes training and related services to enable individuals with disabilities to become employable and to live independently. In addition to vocational training, the act funds programs that assist persons with disabilities to live in the community, and funds research on technological devices that can assist the disabled in such areas as mobility and communication.

The Rehabilitation Act is a vital complement to the Americans With Disabilities Act of 1990 [ADA], which became effective just last month. Services under the Rehabilitation Act enable many of the severely disabled to take advantage of the legal opportunities afforded to them by the ADA.

Many of the improvements in the current reauthorization are technical and administrative in nature, but the underlying policy goals of the reauthorization are clear: to incorporate the philosophy of integration and inclusion of the ADA into the Rehabilitation Act; to streamline access into vocational rehabilitation for the severely disabled; to develop statewide networks of independent living centers for the disabled; to increase consumer choice and involvement in all aspects of the act; and to increase the accountability and quality of services provided.

That is important, carefully considered legislation, and I am pleased to support it. I will seek to schedule a prompt conference committee meeting with our colleagues on the House Education and Labor Committee soon after the August recess, so that we can resolve any differences between the two bills and bring a conference report before the Senate in an expeditious fashion.

Mr. HATCH. Mr. Chairman, I support passage of S. 3065, the Rehabilitation Act Amendments of 1992. I believe all interested parties in this bill had the same goal: To provide individuals with disabilities the tools to become independent members of society through employment. The discussion has been open and extensive, resulting in broad-based, bipartisan support for this bill.

I would like to share an excerpt from a letter sent to a rehabilitation counselor working in my home State of Utah. It illustrates what rehabilitation can do for people. The note says:

> Thanks a lot for helping me out, and understanding my many trials * * * thank you for understanding [our] problems * * * people will ignore and set aside. [It is] like letting people with disabilities fall thru the cracks.

Mr. President, the goal of this legislation is to prevent individuals with disabilities from falling through the cracks. I am pleased with the bill on a number of different counts.

I believe this bill has been drafted with an eye toward the empowerment of individuals with disabilities, increasing choices, independence, and also the responsibility of those who may need and want rehabilitation services. I believe individuals desire to be more self-reliant, and rehabilitation programs give them the means to seize opportunities and take responsibility for those decisions in their lives. Helping people help themselves is true empowerment.

One way consumer empowerment is achieved in this bill is by ensuring the involvement of individuals with disabilities in developing their individual written rehabilitation plan [IWRP]. This type of involvement already works in Utah and has received good marks from an another Utahn. She states:

> * * * People in mine and similar situations need to be treated as human beings who need to form a new direction to their lives. This can only be done with the sensitivity of the unique individual guidance plan such as the one [my counselor] and I have worked out together. The together part is most important * * *.

I hope that the together part is incorporated in every State across the country.

Individuals with disabilities will also have greater input in policy development by the establishment and continuation of State rehabilitation advisory councils and State independent living councils. The bill also gives the commissioner authority to fund projects to demonstrate ways to increase client choice.

There are provisions aimed at improving the operation of the program. I hope that provisions streamlining eligibility, requiring the use of existing data where possible and increasing interagency cooperation will all have positive results. I believe that improving the transition between school systems and vocational rehabilitation is also a step in the right direction. The legislation continues to support independent living centers and services.

As with any compromise, there are individuals and groups who would have liked to see different provisions than those included in the bill. I am aware of that fact. Individuals with disabilities, their families, and others have made known their frustrations with some aspects of the current system.

I also recognize the concerns of those who administer the program. They, too, have frustrations resulting from the desire to fulfill the goals and directives of the Rehabilitation Act within severe budgetary constraints.

As elected representatives working to develop good public policy, we have been charged to spend tax dollars wisely. We all agree that accountability must be incorporated into all government programs. The search for measures of efficiency and effectiveness, important elements of accountability, have always been important, and not always easy. This is especially true when agencies must quantify successes that cannot be measured by numbers. Such is the case with this program.

The Congress has given State rehabilitation agencies the responsibility for providing rehabilitation training for those individuals with disabilities that need assistance to become employed and live independently. Congress has also placed a priority on services to the most severely disabled when there are not enough resources to serve everyone. Clearly, services to this population are more costly than to other segments of eligible participants. We must recognize, given this challenge, that the historical measures of efficiency and effectiveness may need to be adjusted and that a cost-benefit ratio may not tell the entire story. For example, counting the number of individuals served is a measurement of efficiency, but it may not be one that is

appropriate to judge the Rehabilitation Program.

Mr. President, I would also like to comment briefly on the creation of title VIII in this legislation. The creation of title VIII should not be indicative of a lesser priority placed on the programs in this title. These programs were placed in this title for the purpose of scorekeeping, in deference to the Budget Committee, and is not intended to create additional limitations on the Secretary's authority to fund discretionary programs.

In the process of reauthorizing legislation, the focus is often on what is wrong with the program. However, this program has had many successes of which we can be proud. I have read a number of letters commending the work of rehabilitation counselors in my home State of Utah. One such letter states:

> When I first contacted [my counselor] and informed him of my situation, he was sympathetic, but the outlook was rather dim. But [my counselor's] relentless efforts to help me regain my self esteem did not go unrewarded. The fact is that my entire family feel indebted to him. My family and I are truly grateful to him. And I consider it a privilege to have him as my counselor.

The level of concern, personal interest, and encouragement they received have been in evidence from letters such as these. I am proud that counselors of this caliber are working in Utah.

Utah has a proud tradition of helping people help themselves and, in many ways, this philosophy is a hallmark of vocational rehabilitation. This result is evident in another letter, in which a client states:

> * * *instead of living on others' tax dollars, my own taxes are going back to help other people in similar situations.* * *

This emphasis on short-term help has assisted thousands of individuals become independent, self-reliant members of society. I support the continuation of this approach.

Mr. President, in conclusion, I would like to thank Senator DURENBERGER and Senator HARKIN for their excellent leadership on this legislation. Their staffs have also put in many hours over the past year in bringing this bill to fruition and should be commended.

I would also like to thank members of the Utah Task Force on Disabilities. Dr. Marvin Fifield, who serves as the chairman of this task force, has been invaluable. I would also like to thank specifically Dr. Blaine Peterson, executive director, Utah State Office of Rehabilitation Services, Mr. Don Uchida, director, Division of Rehabilitation Services, and Mrs. Helen C. Roth, executive director of the Northern Utah Center for Independent Living, who were also helpful in providing feedback on various proposals.

From what I have observed, those involved in the vocational rehabilitation program in Utah have contributed to a spirit of cooperation. I would hope that those who are disabled, those who represent the disabled, State rehabilitation administrators, counselors, and others involved in making this program successful, continue to be open and cooperative in making rehabilitation work for everyone across the country.

Mr. DURENBERGER. Mr. President, I am pleased to once again be on this floor with my colleagues from Iowa to present a piece of legislation to our colleagues which is designed to help make us one America—the Rehabilitation Act of 1992.

Through the twists and turns of our history, the truth has been proven over and over again that "united we stand and divided we fall." This generation of Americans is taking on the challenge of eliminating artificial separation among our people on the basis of disability. Each prejudice we enlighten, each barrier we remove, America stands taller.

The historic Americans With Disabilities Act has just celebrated it's second birthday. The leadership within our committee, Senator KENNEDY and Senator HATCH, the Senate leadership and very consistent and tangible leadership from President George Bush were crucial to that bill's passage. Our former colleague Lowell Weicker played an indispensable role. The foremost credit within this Congress for ADA belongs to my friend and subcommittee chair, TOM HARKIN.

But we probably all have the same feeling about our role in passage of ADA. Like Winston Churchill said after World War II: "It was the people who had the lion's heart. I had the luck to give the roar." It was the heart and wisdom and determination of millions of Americans of every description that made ADA a reality; we just got to make the speeches when it did.

Mr. President, it is one thing to articulate a set of rights. It is quite another to fashion programs which allow people to take full advantage of them. That is the challenge which this legislation begins to live up to. This measure is unfortunately not worthy of the title many of us had hoped would be on it: ADA Implementation Act. But it represents major progress.

When this act was first passed in 1920, its sole purpose was job related: to help injured workers get back to their jobs. Over the past seven decades, and especially the last 14 years, it has been expanded to deal with a far broader set of human needs. "Rehabilitation" in the 1990's means vocational rehabilitation as well as training to assist community living, mobility and communication.

The bill before us contains several major accomplishments:

A revision of the act that ensures the concepts of empowerment for individuals with disabilities will be followed including respect for individual dignity, self-determination, inclusion, integration, and full participation of individuals with disabilities.

A presumption that individuals with disabilities, including individuals with the most severe disabilities, are capable of benefiting from vocational rehabilitation services unless the State agency can demonstrate by clear and convincing evidence that the individual cannot benefit.

An improved relationship between the State agencies and public schools through a directive to establish policies and methods, including interagency agreements, to facilitate both the long-term rehabilitation goals for students and the transition of students from schools to State rehabilitation agencies.

Increased consumer involvement and choice by requiring a joint signoff between consumer and counselor in the Individualized Written Rehabilitation Program.

The establishment of a State Rehabilitation Advisory Council for the basic grant program, a majority of whose members shall be persons with disabilities.

A choice demonstration project which gives States broad authority to implement consumer choice programs.

A counselor incentive demonstration to allow the Commissioner to fund projects to identify appropriate incentives to vocational rehabilitation counselors, such as weighted case closures, to achieve high quality placements for individuals with severe disabilities.

The establishment of the Rehabilitation Research Advisory Council within the Department of Education to advise the Director of the National Institute on Disability and Rehabilitation Research with respect to research priorities.

Increased accountability and quality through the consumer councils and State plans.

Mr. President, like many, I am disappointed that this bill does not measure up to some of the high hopes we had when we began this process. But there can be some consolation that we have made a downpayment here on each of the major goals we have set. Within the budgetary guidelines we operate under, both here and in the State capitals around the country, we have done the best we could. The Senator from Iowa, as chairman of Labor, Health and Human Resources Subcommittee of the Appropriations Committee knows those constraints better than any of us.

The excellent support we have been given by the Labor and Human Resources Committee is much appreciated, as is the skillful, diligent staff work we have come to expect from the committee staff of the Subcommittee on Disability Policy on both the majority and minority side.

Mr. President, special recognition must be given to the staff director of

the Subcommittee on Disabilities, Robert "Bobby" Silverstein. This bill would not be here today if Bobby Silverstein was not here. His work on this bill can only be described as brilliant. And I also want to recognize the extraordinary efforts of my subcommittee staffer, Annie Silberman. She worked tirelessly with Bobby to see that this bill would become law.

I would also like to credit the valuable input I have received from the people of Minnesota on this measure. I want to thank: Colleen Wieck, the director of the Governor's Council on Developmental Disabilities; Mary Shorthall, the director of the State vocational rehabilitation process; Paula Goldberg, and the other parent advocates in the group called Pacer; Jerry Krueger, Jay Johnson, and the other independent living directors in Minnesota; Charlie Lakin; Dan Klint, who testified before the subcommittee; Mike Ehrlichmann, chair of the Regional Transit Board; Margo Imdieke, director of the Minnesota State Council on Disability; Bruce Johnson, Office of Ombudsman for Mental Health and Mental Retardation; Mary O'Hara-Anderson; Elin Ohlsson; David Schwartzkopf; Kurt Strom, with the Minnesota State Council on Disability; Leah Welch, director of Independence Crossroads; Kathy Wingen, Advocacy Plus Action; Rachel Wobschall, Governor's initiative on technology for people with disabilities, and the many many other Minnesotans who have consulted with either me or my staff about this legislation.

I urge my colleagues to support this bill today. And I also urge them to work together to break the fiscal stalemate which prevents us from moving boldly forward in the empowerment of the citizens this legislation is designed to serve.

Mr. DODD. Mr. President, I rise today in support of S. 3065, the Rehabilitation Act Amendments of 1992. I am proud to say that I am an original cosponsor of this bill, which the Labor and Human Resources Committee has unanimously approved.

Mr. President, this legislation makes many needed improvements in the Rehabilitation Act and goes a long way toward embracing the principles set forth in the Americans with Disabilities Act. Although there are many important modifications in these amendments, two of the most important improvements, in my view, are streamlining of the eligibility process and increased participation of consumers in the provision of services. I believe the amendments demonstrate a commitment to helping individuals with disabilities realize their full potential—and all Americans stand to gain from that.

I urge my colleagues to support this important measure.

Mr. JEFFORDS. Mr. President, I rise in support of S. 3065, the reauthorization of the Rehabilitation Act. I wish to commend the chairman and ranking member and their staff on the Subcommittee for Disability Policy for their tireless efforts to reauthorize this important bill.

We are entering a new era of recognition of the rights of individuals with disabilities. The Americans with Disabilities Act, some provisions became effective 2 weeks ago, is one of the most far-reaching bills guaranteeing equal rights to disabled persons. The bill, long overdue, is a dramatic and historic step to assuring full participation by individuals with disabilities into everyday life.

With the passage of the ADA, the Rehabilitation Act takes on even greater importance. The Rehabilitation Act provides essential services to assure that persons with disabilities receive training to become employed and live independently. This training is essential and often makes the difference between a life of productivity or a life of frustration and dependence. Training and employment are key areas of the Rehabilitation Act and are strengthened and enhanced in the reauthorized bill.

In general, S. 3065 enjoys strong bipartisan support. It is an important bill and a good bill. I would be remiss, however, if I did not express my continued concern with the possible shift in emphasis and policy changes in title II, Research and Training.

Title II of the bill establishes the National Institute on Disability and Rehabilitation Research [NIDRR] and authorizes research and related activities. In turn, the NIDRR administers research and training centers, rehabilitation engineering centers, research and demonstration projects, and field-initiated research projects.

One such center exists in my State. The Vermont Rehabilitation Engineering Center, located at the University of Vermont, has established itself as the premier research center for the study of lower back disorders. Back and spine impairments, excluding those of the spinal cord, are the third leading cause of impairment in the United States, second only to hearing and sight impairments. Total medical costs for those disabled by back disorders have been estimated to be as much as $100 billion a year. Compensation awards in the Social Security disability program increased by 2800 percent between 1957 and 1976 reflecting a growth rate of 14 times that of the population, and back injuries on the job represent 32 percent of compensable injuries.

Yet, those with chronic back pain report considerable frustration over the lack of helpful information as well as the lack of adequate accommodations in the workplace and in the public sector. They also want to know how to prevent reinjury and further pain.

Accommodating people with back disabilities requires much more research-based knowledge, the application of research findings, and the training of people who can apply these findings. More information is needed about economic, psychosocial, and demographic risk factors, different types of workplaces and different workers, mechanisms of injury, gender-based differences and age-related changes in tissue strength endurance and range of motion. This research-based knowledge must be shared with health-care providers, employers, patients, and the public.

But Vermont is not the only State with a rehabilitation engineering center nor is lower back pain the only subject of research. Ten other centers exist whose priorities of research range from adaptive computers and information systems to augmentative and alternative communication devices to research to improve wheelchair mobility.

My point is that the research aspects of this bill are essential and the results of the work have had direct and tangible benefits for those with disabilities. Yet, changes in the bill might be read to diminish the emphasis on research. In addition, the language might appear to take away the focus on particular disabilities and substitutes instead a focus on life areas or functional areas across disabilities. While there is no arguing that life areas ought to be considered and information disseminated, it should not be at the expense of research.

NIDRR plays a key role in disability related research, education, and training. For the past 20 years, NIDRR has led the Nation in efforts to reduce the prevalence of certain disabilities, as well as to improve employment opportunities for those with impairments. Their research programs have resulted in new treatments, and surgical techniques, improvements in clinical and laboratory technology, new information, and the targeting of a multitude of disability risk factors. More than any other, NIDRR has helped to inform health care providers, employers, insurers, and the public about new technology and research related to individuals with disabilities.

The research aspects of this bill are essential to the needs of individuals with disabilities and key to providing the technological solutions to problems confronting individuals with disabilities. While I have been assured that it is not the intent of the legislation to diminish research nor to discourage single disability research, I have added language to the committee report to reinforce my position and establish legislative intent.

The PRESIDING OFFICER. Without objection the substitute amendment is agreed to.

The amendment (No. 2935) was agreed to.

The PRESIDING OFFICER. Without objection, the bill is deemed to have been read the third time and passed.

So the bill (S. 3065) was deemed read three times and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL REHABILITATION WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of following joint resolutions: House Joint Resolution 411, designating "National Rehabilitation Week" and Senate Joint Resolution 242, designating "National Rehabilitation Week"; that the Senate then proceed en bloc to their immediate consideration; that the joint resolutions be deemed read three times, passed, and the motions to reconsider laid upon the table en bloc, and the preambles agreed to en bloc; that the consideration of these items appear individually in the RECORD and any statement appear at the appropriate place.

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

So the joint resolution (H.J. Res. 411) was deemed read three times, and passed.

So the joint resolution (S.J. Res. 242) was deemed read three times and passed, as follows:

S.J. RES. 242

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy.

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitation services in this Nation: Now, therefore, be it

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

(1) the week of September 13, 1992, through September 19, 1992, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

(2) each State governor; and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

PRESCRIPTION DRUG AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, S. 3163, a bill to coordinate Federal and State regulation of wholesale drug distribution; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table, and that any statements on this item appear at the appropriate place in the RECORD.

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

So the bill (S. 3163) was deemed read three times and passed, as follows:

S. 3163

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

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug Amendments of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. DISTRIBUTOR REGISTRATION.

(a) REQUIREMENT.—Section 503(e)(2)(A) (21 U.S.C. 353(e)(2)(A) is amended by inserting before the period the following: "or has registered with the Secretary in accordance with paragraph (3)".

(b) REGISTRATION.—Section 503(e) (21 U.S.C. 353(e)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Any person who engages in the wholesale distribution in interstate commerce of drugs that are subject to subsection (b) in a State that does not have a program that meets the guidelines established under paragraph (2)(B) shall register with the Secretary the following:

"(A) The person's name and place of business.

"(B) The name of each establishment the person owns or operates that is engaged in the wholesale distribution of drugs in a State that does not have a program to license persons engaged in such distribution.".

(c) TECHNICAL.—Section 503(f)(1)(B) (21 U.S.C. 353(f)(1)(B)) is amended by striking out "and order" and inserting in lieu thereof "an order".

(d) SUNSET.—Effective September 14, 1994, the amendments made by subsections (a) and (b) shall no longer be in effect.

SEC. 3. PENALTY CLARIFICATION.

(a) SCIENTER.—Paragraph (1) of section 303(b) (21 U.S.C. 333(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsection (a), any person who violates section 301(t) by—

"(A) knowingly importing a drug in violation of section 801(d)(1),

"(B) knowingly selling, purchasing, or trading a drug or drug sample or knowingly offering to sell, purchase, or trade a drug or drug sample, in violation of section 503(c)(1),

"(C) knowingly selling, purchasing, or trading a coupon, knowingly offering to sell, purchase, or trade such a coupon, or knowingly counterfeiting such a coupon, in violation of section 503(c)(2), or

"(D) knowingly distributing drugs in violation of section 503(e)(2)(A), shall be imprisoned for not more than 10 years or fined not more than $250,000, or both.".

(b) CLARIFICATION.—Section 303 (21 U.S.C. 333) is amended—

(1) in subparagraphs (A) and (B)(i) of subsection (b)(4), by striking out "the arrest and conviction of" each time it occurs and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(2) in subparagraph (B)(i) of subsection (b)(4), by striking out "the arrest of" and inserting in lieu thereof "the institution of a criminal proceeding against";

(3) in subsection (b)(5), by striking out "the arrest and conviction of" and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(4) in subsections (c) and (d), by striking out "subsection (a) of this section" and inserting in lieu thereof "subsection (a)(1) of this section"; and

(5) in subsection (d), by striking out ", and no person" and all that follows through "mislead".

SEC. 4. DRUG SAMPLES.

Section 503 (21 U.S.C. 353) is amended—

(1) in subsection (d), by amending paragraph (1) to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term 'distribute' does not include the providing of a drug sample to a patient by a—

"(A) practitioner licensed to prescribe such drug,

"(B) health care professional acting at the direction and under the supervision of such a practitioner, or

"(C) pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample pursuant to paragraph (2) or (3).".

(2) in paragraphs (2) and (3) of subsection (d), by striking out "distributor" each place it occurs and inserting in lieu thereof "authorized distributor of record" and in subsection (d)(3) by striking out "distributors" each place it occurs and inserting in lieu thereof "authorized distributors of record";

(3) in subsection (e), by amending paragraph (1) to read as follows:

"(e)(1)(A) Each person who is engaged in the wholesale distribution of a drug subject to subsection (b) and who is not the manufacturer or an authorized distributor of record of such drug shall, before each wholesale distribution of such drug (including each distribution to an authorized distributor of record or to a retail pharmacy), provide to the person who receives the drug a statement (in such form and containing such information as the Secretary may require) identifying each prior sale, purchase, or trade of such drug (including the date of the transaction and the names and addresses of all parties to the transaction).

"(B) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug."; and

(4) in subsection (e)(4) (as so redesignated by section 2(c)), by inserting before the dash the following: "and subsection (d)".

SEC. 5. TECHNICAL AMENDMENT.

Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by striking out "person who manufactured" and inserting in lieu thereof "manufacturer of".

Passed the Senate August 11 (legislative day, August 5), 1992.

NONDISCRIMINATORY TREATMENT OF THE PRODUCTS OF THE REPUBLIC OF ALBANIA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 611, House Joint Resolution 507, a joint resolution approving the extension of most-favored-nation status for products from Albania, that the joint resolution be deemed read three times, passed, and the motion to reconsider laid upon the table.

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

The joint resolution (H.J. Res. 507) was deemed read the third time, and passed.

Mr. BENTSEN. Mr. President, I rise in support of House Joint Resolution 507, which would approve the extension of most-favored-nation [MFN] treatment to imports from Albania, as well as the trade agreement between the United States and Albania that was signed May 14, 1992. That resolution is identical to Senate Joint Resolution 317, which was approved by the Finance Committee on August 4, 1992.

Our relations with Albania—both political and economic—are in their infancy. We restored diplomatic relations with Albania just over a year ago—after a 45-year break. We did not know much about Albania during that 45-year period, since it was one of the most isolated countries in Eastern Europe.

But in the past year, I think the Albanians have made impressive progress. The new government, controlled by the Democratic Party, is moving ahead quickly with a radical economic reform program. The Albanian Government and the people know that the road ahead is not going to be an easy one, but they have gotten off to a good start.

This trade agreement, and the extension of reciprocal MFN treatment, will be one step in the direction of closer economic relations. We have a long way to go. Our two-way trade last year was only $21 million. Over time, and with the help of this agreement, that should improve. I urge my colleagues to approve House Joint Resolution 507, so that MFN treatment may be promptly extended to Albania.

Mr. PACKWOOD. Mr. President, I rise in strong support of passage of this resolution which approves the United States-Albania trade agreement and provides Albania most-favored-nation [MFN] trading status. On its face, providing Albania MFN or nondiscriminatory trading status may seem rather routine. After all, we provide MFN to all nations with the exception of a handful of Communist countries. But by approving this resolution, we are sending a very powerful and important message of support to the people and the new government in Albania, the Balkan countries, and to the world.

I, like all Americans, am horrified and saddened with what is happening in Yugoslavia. I remind my colleagues that Yugoslavia borders Albania to the north and to the east. During these critical times, we need to do everything possible to maintain stability in each of the Balkan countries. I firmly believe that providing Albania MFN trading status at this time will help provide confidence to the Albanian people and go a long way in promoting Albania's goal of becoming a free market economy.

There is no question that Albania's fragile economy is in need of immediate reform. Unemployment is running at more than 50 percent. Gross industrial output is falling dramatically due in large part to severe shortages of raw materials and spare parts. Inflation in 1991 totaled 104 percent and continues to spiral in 1992. The supply of food and goods to the population has broken down and living standards are poor.

However, there are many bright spots in Albania's future. With the recent elections in March, Albania joined with other East European countries in discarding its Communist and isolationist past and establishing a democratic, reform minded party led by Dr. Sali Berisha—Albania's new President. Already, President Berisha and the new Prime Minister Aleksander Meksi presented a comprehensive program for reforming Albania's economy. Some of these reforms include privatizing agricultural land, dismantling state-owned monopolies, encouraging private sector investment, and reforming Albania's banking and financial sector. While all of these reforms are positive, make no mistake, the economic reform process will be painful and may take years to complete.

It is critically important that the United States does everything possible to ensure that the reform minded government in Albania succeeds. By approving this trade agreement, we are taking an important first step. In addition to giving Albania MFN, the agreement has numerous provisions designed to promote and expand two-way trade and for the protection of intellectual property rights.

In the past, trade between the United States and Albania has been small. In 1991, United States exports to Albania reached $18 million—primarily coal and wheat—while United States imports totaled $3.2 million—primarily crude vegetable materials. This agreement will boost trade and economic cooperation between the two countries. Already in 1992, United States exports to Albania have exceeded 1991 levels and should continue to grow further under the agreement. Albania's exports to the United States will also increase. Albania is rich in raw materials—chromium, cooper, nickel, iron ore—that are only being partially tapped. Once tapped, they can be exported and will benefit in particular from reduced U.S. tariffs.

It is interesting to note that a side-letter to the agreement promotes tourism within Albania. Just imagine the potential. With most European beaches becoming either expensive or crowded, Albania's beautiful Adriatic coast could become one of the hottest tourist spots in Europe—not to mention a major source of investment in Albania's economy.

In conclusion, I have longed believed that the best way we can help struggling democracies succeed is to help them help themselves. The Albania Government's economic reform plan is headed in the right direction. By approving this trade agreement, we are promoting trade and investment within Albania, and helping the Albanian people in their road to success. I urge all my colleagues to support the resolution.

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 317

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Calendar No. 610, Senate Joint Resolution 317, the Senate companion, be indefinitely postponed.

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

AUTHORIZING CERTAIN TRAVEL EXPENSES

Mr. MITCHELL. Mr. President, on behalf of myself and the Republican leader I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 333) authorizing certain travel expenses.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 333) was agreed to; as follows:

S. RES. 333

Resolved,

SECTION 1. TRAVEL EXPENSES.

The appropriations account "Miscellaneous Items", in the contingent fund of the Senate, is available for the payment of official travel expenses, authorized by the President pro tempore, majority leader or minor-

ity leader of the Senate, incurred by the Chaplain of the Senate, upon vouchers approved by the President pro tempore, majority leader, or minority leader.

SEC. 2. ADVANCEMENTS.

The Secretary of the Senate is authorized to advance funds under the authority of this resolution for travel expenses under section 1 in the same manner provided for committees of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE TESTIMONY OF SENATE EMPLOYEE

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution authorizing the testimony of a Senate employee and the production of documents by the Committee on Banking, Housing, and Urban Affairs, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 334) to authorize the testimony of Senate employee and release of documents by the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, Independent Counsel Arlin M. Adams, who was appointed on March 1, 1990, by the special division of the U.S. Court of Appeals for the District of Columbia to investigate allegations that Federal officials and others conspired to defraud the United States in connection with the administration of Department of Housing and Urban Development programs, has requested documents in the custody and control of the Committee on Banking, Housing, and Urban Affairs, as well as the trial testimony of a Senate employee. The documents and testimony are sought for the case of *United States* v. *Dean*, Cr. No. 92-0181 and *United States* v. *Demery and McCafferty*, Cr. No. 92-0227, pending in the U.S. District Court for the District of Columbia.

In United States versus Dean, the charges against the defendant includes making false statements to the Banking Committee and committing perjury in testimony before the committee in connection with its consideration of the defendant's nomination to the position of HUD Assistant Secretary for Community Planning and Development. In United States versus Demery and McCafferty, defendant Demery, who was nominated and confirmed to the position of HUD Assistant Secretary of Housing, is charged with conspiring to defraud the United States and commit offenses against it by participating in decisions at HUD in which he had a personal financial interest. The indictment charges that in furtherance of the conspiracy, Mr. Demery made certain representations to the Banking Committee in order to obtain confirmation as Assistant Secretary.

The following resolution would authorize the chairman and ranking minority member of the Banking Committee, acting jointly, to furnish Committee records to Independent Counsel Adams and would authorize the Senate employee to testify. It also would authorize the Senate legal counsel to represent the Senate employee in connection with her testimony and would authorize the committee to release additional documents to the independent counsel to assist him in his investigation of other matters within his authority.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 334) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 334

Whereas, in the cases of United States v. Dean, Cr. No. 92-0181, and United States v. Demery and McCafferty, Cr. No. 92-0227, Independent Counsel Arlin M. Adams has requested the testimony of Lory Breneman, a Senate employee on the staff of the Committee on banking, Housing, and Urban Affairs, and documents within the control of the Committee on Banking, Housing, and Urban Affairs;

Whereas, the Independent Counsel also has requested certain documents within the custody and control of the Committee on Banking, Housing, and Urban Affairs to assist his office in its investigation of other matters relating to the Department of Housing and Urban Development;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2)(1988), the Senate may direct its counsel to represent committees, Members, officers and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity; Now, therefore, be it

Resolved, That the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs, acting jointly, are authorized to provide to the Independent Counsel documents in the custody and control of the Committee, except those for which a privilege should be asserted.

SEC. 2. That Lory Breneman is authorized to testify in the case of United States v. Dean, Cr. No. 92-0181 (D.D.C.), except concerning matters for which a privilege should be asserted.

SEC. 3. That the Senate Legal Counsel is directed to represent Lory Breneman in connection with the testimony authorized under section 2.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 3174

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 3174, introduced earlier today by Senators RIEGLE, GARN, GRAHAM, and MACK, a bill making technical corrections in the International Banking Act of 1978; be placed on the calendar.

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

Mr. RIEGLE. Mr. President, on behalf of myself and Senators GARN, GRAHAM, and MACK, I offer S. 3174, a bill that makes a technical correction to section 214(a)(3) of last year's banking bill. That provision added a new subsection 6(c) to the International Banking Act of 1978, which requires foreign banks to take insured deposits in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank.

Concerns have been expressed by the Federal Reserve Board, other regulators, and some State officials that section 214(a)(3) could be interpreted to prevent branches and agencies of foreign banks from accepting certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches. It was not my intention in sponsoring section 214(a) to void regulations promulgated by the FDIC and OCC that permit them to do so. See 12 CFR 28.8 and 12 CFR 346.6. This technical amendment will clarify that matter. It will not, however, remove the discretion of the responsible agencies to revise their regulations governing nonretail deposit accounts under $100,000 if such revision is deemed appropriate.

This is the same technical correction to section 214(a)(3) of last year's banking bill that the Senate passed on March 26 in S. 2482, a bill that provided funding for the Resolution Trust Corporation [RTC]. Final passage of that bill has been delayed in the House. This same technical correction also passed the Senate on July 1 as part of S. 2733, a bill to improve the regulation of Government-sponsored enterprises.

I ask my colleagues to pass this legislation making the technical correction to section 6 recommended.

MEASURE PLACED ON THE CALENDAR—S. 3175

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 3175, a bill introduced earlier today by Senator KENNEDY, to improve the administrative provisions and make corrections in the National and Community Service Act, be placed on the calendar.

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

Mr. KENNEDY. Mr. President, today I am introducing the National and Community Service Technical Amendments Act of 1992. This legislation makes minor technical and administrative changes in the National and Community Service Act of 1990. These modifications will help the Commission on National Service, the independent agency created to administer the Act, to do a more effective job of carrying out its mission of involving more Americans in service to their community and their country.

These amendments have the support of the National Service Commission, the Bush administration, and Senators HATCH and MIKULSKI. These changes will improve the Commission's ability to expand the numbers of citizens involved in addressing the most pressing problems facing communities across the Nation, such as illiteracy, homelessness, drug abuse, and poverty.

These amendments will enhance implementation of the act in several ways. They will allow the Commission to perform better evaluations of programs it funds, thereby improving the efficiency and effectiveness of the act. The amendments clarify Congress intent that the Commission has the ability to appoint an Executive Director, bring in outside experts from the community service field to provide the best technical assistance possible, and hire such staff as is necessary to handle day-to-day administration.

Also, the amendments make explicit the Commission's authority to hire consultants, accept donations of services and property, and enter into agreements with other Federal agencies in order to share information or personnel. Finally, the amendments raise the authorization level for the Commission from $2 to $3 million a year. The budgetary increase is essential for the Commission to fulfill its numerous statutory mandates, monitor the grants awarded in the first year of implementation, and distribute an anticipated increased number of grants in the second year.

The National Service Commission is guided by an extraordinarily diverse and talented Board of Directors. It has shown commendable energy and dedication throughout the implementation process. In less than a year, they have issued preliminary rules and regulations, held hearings across the country to receive public comments, promulgated final regulations, accepted grant applications, and just recently awarded the first round of grants. The Commission and its staff deserves great credit for these tireless efforts. These technical amendments will facilitate this important work, and I look forward to prompt approval of the amendments by Congress.

This is a summary of the National and Community Service Technical Amendments of 1992. It addresses several unforeseen administrative problems the Commission is now facing as they get further into the implementation process. The amendment:

First, expands the definition of "Summer Program" to include several existing programs that extends into May and September.

Second, corrects several drafting errors where "Secretary" was used rather than "Commission."

Third, allow the Commission to fund several existing programs that include corps members as young as 14.

Fourth, corrects an overly strict confidentiality provision which might prohibit the Commission from using aggregate information about participants in service programs to conduct the required evaluation.

Fifth, clarifies the Board's authority to appoint an Executive Director.

Sixth, removes the staff ceiling on Commission technical employees, now being interpreted by GSA as 10.

Seventh, clarifies the Commission's authority to: use consultants, detailed personnel from other Federal agencies, and the U.S. mails; accept donations and volunteer services; receive relevant information from other Federal agencies; contract for office space; and participate in GSA's Sources of Supply Program.

Eighth, authorizes more money for the Commission to use for administrative expenses without adding to the total authorization of the law, especially as the Commission becomes responsible for distributing larger appropriations for grants under Title I, and clarifies allowed uses of unallocated funds.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

ANNUAL REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 266

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1991.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through Center technical reports, the Radiological Health Bulletin, and other publicly available sources. This annual report serves little useful purpose and diverts Agency resources from more productive activities.

GEORGE BUSH.

THE WHITE HOUSE, *August 11, 1992.*

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years; and

S. 3112. An act to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 132. A concurrent resolution expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

The message also announced that the House disagrees to the amendment of the Senate to the amendment of the

House to the amendment of the Senate to the bill (H.R. 429) to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Interior and Insular Affairs, for consideration of titles I and VII–XL of the Senate amendment, and titles I and VII–XXXIV of the House amendment, and modifications committed to conference: Mr. MILLER of California, Mr. RAHALL, Mr. GEJDENSON, Mr. VENTO, Mr. KOSTMAYER, Mr. DE LUGO, Mr. LEHMAN of California, Mr. MARKEY, Mr. HANSEN, Mr. RHODES, Mr. THOMAS of Wyoming, Mr. YOUNG of Alaska, and Mr. MARLENEE.

From the Committee on Interior and Insular Affairs, for consideration of title II–VI of the Senate amendment, and title II–VI of the House amendment, and modifications committed to conference: Mr. MILLER of California, Mr. RAHALL, Mr. GEJDENSON, Mr. VENTO, Mr. KOSTMAYER, Mr. DE LUGO, Mr. LEHMAN of California, Mr. OWENS of Utah, Mr. HANSEN, Mr. RHODES, Mr. THOMAS of Wyoming, Mr. YOUNG of Alaska, and Mr. MARLENEE.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles II–VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment, and titles II–VI, IX, XXX and XXXIV of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. HUGHES, Mr. HERTEL, Mr. CARPER, Mr. MANTON, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. DAVIS, Mr. FIELDS, Mr. HERGER, Mr. DOOLITTLE, and Mr. CUNNINGHAM.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment, and titles I, VII, XI, and XVIII–XX of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of titles XXI, XXXI, and XXXVIII and sections 3001 to 3004, 3007, 3508, and 3509 of the Senate amendment, and section 3411 of the House amendment, and modifications committed to conference: Mr. ROE, Mr. ANDERSON, Mr. MINETA, Mr. NOWAK, Mr. BORSKI, Mr. KOLTER, Mr. VALENTINE, Mr. HAYES of Louisiana, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. CLINGER, Mr. PETRI, and Mr. PACKARD.

As additional conferees from the Committee on Public Works and Transportation, for consideration of title VII and section 3404(c)(7) of the Senate amendment, and title VII of the House amendment, and modifications committed to conference: Mr. ROE, Mr. NOWAK, and Mr. HAMMERSCHMIDT.

As additional conferees from the Committee on Agriculture, for consideration of section 212 of the Senate amendment, and title XXV and section 212 of the House amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. ENGLISH, Mr. DOOLEY, Mr. CONDIT, Mr. HUCKABY, Mr. STENHOLM, Mr. STALLINGS, Mr. CAMPBELL of Colorado, Mr. COLEMAN of Missouri, Mr. MORRISON, Mr. HERGER, Mr. SMITH of Oregon and Mr. MARLENEE.

As additional conferees from the Committee on Agriculture, for consideration of titles XIII, XIV, XVIII, and XXXVI and section 202 of the Senate amendment, and titles XIX and XX and sections 301, 305, 308, and 2302 of the House amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. VOLKMER, and Mr. COLEMAN of Missouri.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3360. An act to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes;

H.R. 4016. An act to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of;

H.R. 3848. An act to encourage the growth and development of commercial space activities in the United States, and for other purposes; and

H.R. 5334. An act to amend and extend certain laws relating to housing and community development.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1770. An act to convey certain real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center;

S. 2079. An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes;

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes;

H.R. 2977. An act to authorize appropriations for public broadcasting, and for other purposes;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California; and

S.J. Res. 270. Joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2936. An act to establish programs at the National Science Foundation for the advancement of technical education and training in advanced technology occupations, and for other purposes;

H.R. 5008. An act to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rates of payments for benefits under the Montgomery GI bill, and for other purposes;

H.R. 5061. An act to establish the Dry Tortugas National Park in the State of Florida;

H.R. 5751. An act to provide for the distribution within the United States of certain materials prepared by the United States Information Agency;

H.R. 5763. An act to provide equitable treatment to producers of sugar cane subject to proportionate shares; and

H.R. 5764. An act to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 179. A concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing counties financed by the Government of Japan.

At 5:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5487) making appropriations for Agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 6, 17, 21, 23, 27, 46, 59, 72, 73, 83, 102, 105, and 114 to the bill, and agrees thereto, and that it recedes from its disagreement to the amendments of the Senate numbered 2, 4, 7, 8, 15, 16, 18, 19, 24, 35, 47, 67, 69, 74, 80, 98, 99, 101, 106, 119, and 120 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 1216) to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to the foreign state; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3215. An act to reinvigorate cooperation between the United States and Latin America in science and technology;

H.R. 3603. An act to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 4404. An act to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes;

H.R. 5087. An act to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes;

H.R. 5688. An act to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; and

H.R. 5741. An act entitled the "Perishable Agriculture Commodities Act Technical Amendments of 1992".

The message further announced that pursuant to the provisions of section 6010(d)(1) of Public Law 102-240, the Speaker appoints Mr. Walter J. Shea of Annapolis, MD, from private life to the National Council on Surface Transportation Research on the part of the House.

The message also announced that pursuant to the provisions of section 4(a) of Public Law 98-399, as amended by Public Law 101-30, the Speaker reappoints as members of the Martin Luther King, Jr., Federal Holiday Commission the following Members on the part of the House: Mr. WHEAT, Mr. SAWYER, Mr. REGULA, and Mr. FRANKS of Connecticut.

At 7:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 4111) to amend the Small Business Act to provide additional loan assistance to small businesses, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2532) entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the Senate bill (except sections 113-114, 118, 126, 134, 136(d) and 146), and the House amendment (except title IV), and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. SOLARZ, Mr. BERMAN, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. BROOMFIELD, Mr. GILMAN, Mr. LEACH, and Mr. BEREUTER.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 113-114, 118, 126, 134, 136(d) and 146 of the Senate bill, and title IV of the House amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, and Mr. BROOMFIELD.

As additional conferees from the Committee on Agriculture, for consideration of sections 107, 116, 120, 148-149, 157, 403, and 405 of the Senate bill, and section 702 of the House amendment, and modifications committed to conference: Mr. DE LA GARZA, Mr. ROSE, Mr. PENNY, Mr. GLICKMAN, Mr. COLEMAN of Missouri, and Mr. ROBERTS.

As additional conferees from the Committee on Armed Services, for consideration of sections 110, 131, 137-138 of the Senate bill, and title V of the House amendment, and modifications committed to conference: Mr. ASPIN, Mr. MCCURDY, and Mr. DICKINSON.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 113-114, 118, 126, 134, 136(d) and 146 of the Senate bill, and title IV of the House amendment, and modifications committed to conference: Ms. OAKAR, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. TORRES, Mr. KLECZKA, Mr. KENNEDY, Mr. WYLIE, Mr. LEACH, Mr. BEREUTER, and Mr. MCCANDLESS.

As additional conferees from the Committee on Energy and Commerce, for consideration of section 151 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. COOPER, Mr. BRUCE, Mr. HARRIS, Mr. SCHEUER, Mr. LENT, Mr. MOORHEAD, Mr. DANNEMEYER, and Mr. OXLEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 108 and 123 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, and Mr. LENT.

As additional conferees from the Committee on the Judiciary, for consideration of section 704 of the House amendment, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, and Mr. FISH.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 156 of the Senate bill, and modifications committed to conference: Mr. ROE, Mr. OBERSTAR, and Mr. HAMMERSCHMIDT.

As additional conferees from the Committee on Science, Space, and Technology, for consideration section 135 of the Senate bill, and section 504 and title IV of the House amendment, and modifications committed to conference: Mr. BROWN of California, Mr. BOUCHER, and Mr. WALKER.

The message also announced that the House has passed the following bill, in which is requests the concurrence of the Senate:

H.R. 5483. An act to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2936. An act to establish programs at the National Science Foundation for the advancement of technical education and training in advanced technology occupations, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 3215. An act to reinvigorate cooperation between the United States and Latin America in science and technology; to the Committee on Commerce, Science, and Transportation.

H.R. 3360. An act to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3603. An act to promote family preservation and the prevention of foster care with emphasis on families where abuse and alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services; to the Committee on Finance.

H.R. 3848. An act to encourage the growth and development of commercial space activities in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug; to the Committee on Labor and Human Resources.

H.R. 4404. An act to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses,and for other purposes; to the Committee on Armed Services.

H.R. 5008. An act to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rates of payments for benefits under the Montgomery GI bill, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5061. An act to establish the Dry Tortugas National Park in the State of Florida; to the Committee on Energy and Natural Resources.

H.R. 5087. An act to amend title 38, United States Code, with respect to veterans education assistance, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5483. An act to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5741. An act entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992"; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5751. An act to provide for the distribution within the United States of certain materials prepared by the United States Information Agency; to the Committee on Foreign Relations.

H.R. 5763. An act to provide equitable treatment to producers of sugar cane subject to proportionate shares; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5764. An act to amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts; to the Committee on Agriculture, Nutrition, and Forestry.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 179. A concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5334. An act to amend and extend certain laws relating to housing and community development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1690. A bill to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes (Rept. No. 102–369).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 2099. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Jose Antonio Vaillamil, of Florida, to be Under Secretary of Commerce for Economic Affairs; and

Mary Jo Jacobi, of Mississippi, to be an Assistant Secretary of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following named officer under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert A. Tiebout, [redacted] USMC.

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John R. Dailey, [redacted] USMC.

The following named officer for appointment as Assistant Commandant of the Marine Corps under title 10, United States Code, section 5044.

To be general

Lt. Gen. Walter E. Boomer [redacted] USMC.

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Charles C. Krulak, [redacted] USMC.

By Mr. NUNN, from the Committee on Armed Services:

Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for the remainder of the term expiring October 18, 1995.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I reported favorably to attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 18, June 17, July 1, July 2, July 20, August 4, and August 7, 1992, at the end of the Senate proceedings.)

*In the Air Force there is 1 appointment to the grade of brigadier general (Eugene A. Lupia) (Reference No. 457–7)

**In the Army there are 2,013 promotions to the grade of major (list begins with Frank J. Abbott) (Reference No. 967)

*In the Air Force there is 1 appointment to the grade of brigadier general (Thomas J. Lennon) (Reference No. 993–1)

*In the Air Force Reserve there are 18 appointments to the grade of major general and below (list begins with Gary L. Eichhorn) (Reference No. 1189)

*In the Air Force Reserve there are 18 appointments to the grade of major general and below (list begins with Hugh L. Cox III) (Reference No. 1205)

**In the Army there are 611 promotions to the grade of colonel (list begins with Anders B. Aadland) (Reference No. 1237)

*Lt. Gen. Paul G. Cerjan, USA, to be reappointed in the grade of lieutenant general (Reference No. 1253)

*Maj. Gen. Daniel R. Schroeder, USA, to be lieutenant general (Reference No. 1254)

*Maj. Gen. Alcide M. LaNoue, USA, to be surgeon general and to be lieutenant general (Reference No. 1255)

*Maj. Gen. Arthur E. Williams, USA to be lieutenant general and Chief of Engineers (Reference No. 1256)

**In the Air Force Reserve there is 1 appointment to the grade of colonel (astronaut Frances A. Gaffrey) (Reference No. 1264)

**In the Air Force Reserve there is 1 appointment to the grade of colonel (astronaut Charles L. Veach) (Reference No. 1265)

**In the Air Force there are 5 appointments to the grade of second lieutenant (list begins with Craig R. Baker) (Reference No. 1266)

**In the Army Reserve there are 26 promotions to the grade of colonel and below (list begins with Earl P. Ewing) (Reference No. 1268)

*Maj. Gen. William H. Forster, USA to be lieutenant general (Reference No. 1286)

*Lt. Gen. Peter A. Kind, USA for reappointment to the grade of lieutenant general (Reference No. 1287)

*Maj. Gen. Leo J. Pigaty, USA to be lieutenant general (Reference No. 1289)

**In the Army there are 212 promotions to the grade of lieutenant colonel (list begins with Richard L. Agee) (Reference No. 1290)

**In the Army there are 199 promotions to the grade of lieutenant colonel (list begins with Samuel J. Angulo) (Reference No. 1291)

**In the Army there are 61 promotions to the grade of major (list begins with Larr Adamsthompson) (Reference No. 1292)

*Col. Douglas M. Padgett, ANG to be brigadier general (Reference No. 1297)

**In the Army there are 443 promotions to the grade of major (list begins with Phillip L. Aday) (Reference No. 1315)

**In the Air Force Reserve there are 17 promotions to the grade of lieutenant colonel (list begins with James D. English) (Reference No. 1319)

**In the Air Force there are 12 appointments to the grade of second lieutenant (list begins with Andrea D. Begel) (Reference No. 1320)

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Joel D. Miller) (Reference No. 1321)

**In the Army Reserve there are 37 promotions to the grade of colonel and below (list begins with Landry K. Appleby) (Reference No. 1322)

**In the Army there are 5 promotions to the grade of lieutenant colonel and below (list begins with Alfred F. Livaudais) (Reference No. 1323)

Grand total: 3,694.

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. BINGAMAN (for himself, Mr. DURENBERGER, and Mr. SIMON):

S. 3165. A bill to promote the use of State-coordinated health insurance buying programs and assist States in establishing Health Insurance Purchasing Cooperatives, through which small employers may purchase health insurance, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 3166. A bill to amend the Food Stamp Act of 1977 to provide that narcotic addicts or alcoholics, and their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions and shall be considered individual households, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. PRESSLER, Mr. GRASSLEY, Mr. BURNS, Mr. BURDICK, Mr. CONRAD, Mr. KERREY, and Mr. HARKIN):

S. 3167. A bill to amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting coverage, and other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES:

S. 3168. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S. 3169. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Finance.

By Mr. DIXON:

S. 3170. A bill to suspend until January 1, 1995, the duty on certain toys representing troll figures; to the Committee on Finance.

By Mr. DODD (for himself, Mrs. KASSEBAUM, and Mr. KENNEDY):

S. 3171. A bill to amend the Head Start Act to improve certain provisions with respect to training, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER:

S. 3172. A bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 to the General Agreement on Tariffs and Trade, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 3173. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to provide that GS-083 Federal police officers be treated in the same manner as other Federal law enforcement officers for purposes of that Act; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. GRAHAM, and Mr. MACK):

S. 3174. A bill to make technical corrections to the International Banking Act of 1978.

By Mr. KENNEDY:

S. 3175. A bill to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

By Mr. SASSER (for himself, Mr. BENTSEN, Mr. BURDICK, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. MURKOWSKI, Mrs. KASSEBAUM, Mr. PRYOR, Mr. ROCKEFELLER, and Mr. SANFORD):

S.J. Res. 332. A joint resolution to establish the month of October, 1992 as "Country Music Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 333. A resolution authorizing certain travel expenses; considered and agreed to.

S. Res. 334. A resolution to authorize the testimony of Senate employees and release of documents by the Committee on Banking, Housing, and Urban Affairs; considered and agreed to.

S. Con. Res. 135. A concurrent resolution providing for a conditional recess or adjournment of the Senate from Wednesday, August 12, 1992, until Tuesday, September 8, 1992, and a conditional adjournment of the House on the legislative day of Wednesday, August 12, 1992, until Wednesday September 9, 1992; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. DURENBERGER, and Mr. SIMON):

S. 3165. A bill to promote the use of State-coordinated health insurance buying programs and assist States in establishing Health Insurance Purchasing Cooperatives, through which small employers may purchase health insurance, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH INSURANCE PURCHASING COOPERATIVES ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that represents a first step toward realistic, comprehensive reform of our Nation's health care system. My good friend and colleague, Senator DURENBERGER, has worked closely with me in developing this bipartisan measure, and we are pleased to have Senator SIMON joining us today in introducing the Health Insurance Purchasing Cooperatives Act.

Every day, we hear new statistics about soaring health care costs and a system out of control. Costs are rising so rapidly that none of us can feel confident that we will be able to take care of our family's medical problems without losing our savings or our homes. Peace of mind will come only through change in our health care system, the most expensive system in the world. The United States spent $732 billion on health care last year, exceeding the gross national product of all but six of the world's countries. It is sobering to realize that modification of our health care system is comparable to changing the economy of a major nation.

It is the sheer magnitude of our health care system that makes it so difficult to reform. Yet, we cannot afford to delay the task any longer. I am convinced that major structural alterations must be the foundation of reform. Cosmetic changes are not good enough. Many of my colleagues have reached the same conclusion, and it is difficult to count the number of health reform proposals now pending in the Congress.

Why are so many bills being put forth? First, there is a widespread recognition of the problems inherent in our current health care system. But the number of proposals also reflects the lack of consensus on how to solve the problems we face. Without consensus, it will be extremely difficult, if not impossible, to implement any type of comprehensive reform.

Despite the lack of widespread consensus, I believe it is possible for Congress to act on some aspects of health care reform. Careful examination of the proposals put forth by the administration and the Democratic and Republican leadership in the Congress reveals that each group has identified three common problems:

First, the need to reform the small group health insurance market;

Second, the need to create greater efficiency in health insurance billing and claims processing; and

Third, the need to create a common data base or system of assessing effectiveness of health care interventions.

Mechanisms for addressing these problems are included in the President's health reform proposal; in S. 1936, the Senate Republican leadership bill; and in S. 1227, HealthAmerica, the Democratic leadership bill. At this point of consensus, we should take the first step in reform of the health care system. Over time, additional steps will lead to a comprehensive overhaul of our health care system and providing quality care at affordable prices.

The insurance marketplace is replete with failings, but none is as egregious as the failure of the small group insurance market. Insurance for employees of small business has become a luxury few can afford. Insurers have found creative ways to cover healthy individuals, while increasing premiums for individuals who actually need or use their health insurance.

A curious form of natural selection has developed for employees of small business: the employee who becomes ill is dropped from the company's policy, to preserve lower prices for the remaining employees. The disparity in premiums can be enormous, depending on where a beneficiary lives and the type of work he or she performs. We have reached a point where no one who works for a small employer can be confident he or she will have health insurance next year.

When considering how to reform this particular system, an understanding of

history—of how we got to this point—is useful:

For the past 100 years, we have pursued a pluralist health care system. Seeking checks and balances, we have allowed a combination of competing sectors to evolve. Driven by pressures from third-party payers and Government regulators, the system has contracted in some areas, but in only in response to pressure. No overall direction or management of the system has been developed or encouraged. To the contrary, our health care system has proven resistant to comprehensive management.

Many other countries have sought a balanced, centralized approach to providing health services. In the United States, suspicion of government has lead us to eschew such remedies. Americans have struggled to define and distinguish adequate government protection and undue meddling. Ambivalence to the role of charity and government intrusion has created a pluralist health care system in which every individual has enormous freedom and no one person or entity can guide the direction of American health policy.

I believe our pluralist health care system needs management—management that can effectively channel market forces and allow disenfranchised groups, like employees of small business, to have a voice. But effective management requires information; and today, that is something we do not have. In fact, most of us in policymaking positions know very little about our health care. The pluralist system we have developed defies evaluation and has created a situation that can only be poorly described. If we ever expect to reach comprehensive reform, we need to know more about our system.

The three first steps to health care reform I have outlined—reform of the small group health insurance market; creating administrative efficiencies; and acquiring information for managing the system—will be most effective if linked with a fourth step: one that allows consumers to make choices on the basis of cost and quality.

Over the years, we have not been able to make many health care choices based on cost, and we have had access to only limited information with which to make decisions about quality. The bill we are introducing today addresses this problem, as well as the other three, by encouraging States to create large purchasing cooperatives for small employers, which will allow consumers to base decisions on cost and quality.

For some time, companies that have purchased large quantities of health care services have demonstrated that buying leverage can impact the health care system. Large buyers can demand discounts and quality services. Very few small employers enjoy this leverage. This bill will help give small business the buying power and leverage enjoyed by large companies.

The bill will establish a management model for the small employer health insurance market. It will restrict the wild fluctuations in insurance ratings that have been applied to individuals seeking insurance through small groups.

The bill will create administrative savings in two ways:

First, it mandates that insurers participating in the new system use electronic administration of claims and billing. Insurers will provide consumers with electronic credit cards, which summarize their medical benefits, treatment history, and health history; and

Second, and more important, the bill will create a mechanism for consumers to make knowledgeable choices about quality and cost when choosing medical benefits.

Our bill achieves these objectives by helping States create health insurance purchasing cooperatives, or HIPC's. A new Federal grant program will be authorized within the Department of Health and Human Services, through which States can apply for funding to help establish an HIPC system. I ask unanimous consent that a summary of our bill be included in the RECORD at the conclusion of our remarks.

States participating in the program will assign exclusive regional franchises to each HIPC; and in participating States, HIPC's will be the exclusive mechanisms for small employers—50 employees and less—to purchase health insurance.

An independent national health board will be established by the President. This board will recommend several levels of health benefit packages, which will be offered through the HIPC's. Recommendations will be based on demonstrated efficacy of interventions, including cost effectiveness. The board will also determine which outcome measures should be used in assessing the medical services delivered through HIPC's.

HIPC's will: seek bids from insurance carriers seeking to provide the care and benefits described in the bid request; act as a health benefit office for small employers; offer small employers and employees a range of health packages; and ensure that employees receive all appropriate services, including any mandated Federal benefits.

The Congressional Research Service has estimated national implementation of steps like these will save as much as 9 percent on the average cost of health insurance premiums. At the same time, under ideal conditions, our bill will open the health insurance market to 17 million Americans currently lacking health benefits. If HIPC's are adopted by a smaller number of States, 10, for example, substantial savings could still occur. Using 10 States representing a range of size and population characteristics, the Congressional Research Service estimates 21 million individuals could be covered. As many as 7 million of these individuals, or 32 percent, currently have no health benefits.

Under the Health Insurance Purchasing Cooperatives Act, these 7 million individuals will be brought into the health benefits market, and the average premium would still be 2 percent less than current rates. Moreover, the small employer market would be stabilized—no more red-lining or churning that deprives individuals of coverage or threatens continued coverage.

In November 1991, Secretary Sullivan charged the insurance industry to devise strategies for improving administrative efficiency of the health Insurance industry. The Workgroup for Electronic Data Interchange [WEDI] issued their report on July 21, 1992. The WEDI report includes many steps emphasized in our bill. WEDI estimates implementation of electronic uniform health system could save between $4 and $10 billion annually. Our bill will authorize $25 million for the grant program for the first year, and $30 million per year thereafter.

Mr. President, in closing, we are introducing the Health Insurance Purchasing Cooperatives Act today because we believe a consensus now exists that will allow us to take the first four steps toward comprehensive health care reform. By taking these four steps, more than 32 million workers who work for small employers, and their 28 million dependents, could finally have peace of mind. And finally, we will have clearly set out the direction for comprehensive health care reform over the next several years. Thank you.

I ask unanimous consent that the bill summary and a copy of my bill be printed in the RECORD.

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

S. 3165

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Purchasing Cooperatives Act".

SEC. 2. HEALTH INSURANCE PURCHASING COOPERATIVES GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall award grants to States, which submit applications and otherwise meet the requirements of this Act, to assist such States in establishing coordinated buying programs through which small employers may purchase health insurance for their employees.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application in such form, at such time, and containing such information, certifications, and assurances as the Secretary shall reasonably require, including a certification that—

(1) the State has, through State law, executive order, or regulation, initiated the steps necessary to establish a coordinated buying program that meets the requirements of subsection (d), through which each small employer in the State desiring to purchase health insurance for its employees shall purchase such insurance; or

(2) in the case of a State which the Secretary identifies, in consultation with the National Association of Insurance Commissioners, as—

(A) requiring State legislation (other than legislation appropriating funds) to establish a coordinated buying program that meets the requirements of subsection (d); and

(B) having a legislature that does not meet during the first year after the date of enactment of this Act in a legislative session in which such legislation may be considered;

the State has established a plan, to be fully implemented not later than 2 years after the date on which the grant is awarded to such State by the Secretary, for the establishment of a coordinated buying program that meets the requirements of subsection (d).

(c) USE OF FUNDS.—Amounts awarded under this section may be used to finance the administrative costs associated with planning, developing, and implementing a coordinated buying program, comprised of one or more Health Insurance Purchasing Cooperatives, for small employers. Such administrative costs may include the costs associated with—

(1) engaging in education and outreach efforts to inform small employers, carriers, and the public about the coordinated buying program;

(2) soliciting bids and negotiating with carriers to make available health benefit plans, consistent with section 3, through the coordinated buying program and one or more Health Insurance Purchasing Cooperatives; and

(3) preparing and disseminating the documentation required by Federal agencies to certify participation in the coordinated buying program and one or more Health Insurance Purchasing Cooperatives.

(d) COORDINATED BUYING PROGRAM.—To receive funding under this section, a State coordinated buying program shall—

(1) be authorized and enforced under State law, executive order, or regulation as the sole mechanism through which health insurance or a health plan for employees of small employers shall be purchased or provided in such State, except a State may authorize limited exemptions for small employers who acquire health insurance from bona fide associations as defined under section 6 that offer health insurance as a service to members on the date of enactment of this Act;

(2) provide each small employer in the State with access to health insurance for its employees and their dependents, through one or more Health Insurance Purchasing Cooperatives qualified under subsection (e);

(3) require that each Health Insurance Purchasing Cooperative participating in the State coordinated buying program meet the requirements of section 5 with respect to reporting data to a Regional Data Collection Center and participating in the National Health Insurance Data System; and

(4) meet such other criteria as reasonably required by the Secretary, the National Health Board, State Health Insurance Purchasing Cooperative Board, or mandated under this Act.

(e) HEALTH INSURANCE PURCHASING COOPERATIVE.—

(1) REQUIREMENTS.—To be a qualified Health Insurance Purchasing Cooperative an entity shall—

(A) be a nonprofit entity established and regulated in accordance with State law in a manner that will ensure an economy of scale based on the State's geographic and demographic characteristics;

(B) be designated by the State as the exclusive agent for purchasing, coordinating, and administering services among carriers on behalf of small employers and their employees within a defined geographic area (hereafter referred to in this section as a "district");

(C) except as provided under paragraph (3), certify that it will not contract with any carriers that deny, limit, or condition coverage under (or benefits of) the plan based on the health status, claims experience, receipt of health care, medical history or lack of evidence of insurability, of an individual;

(D) after the date that is 2 years after the date of enactment of this Act, certify that it will not contract with any carriers that do not meet the minimum benefits requirements established by the National Health Board under section 4;

(E) not less than annually, hold an open enrollment period for all employees covered by the Health Insurance Purchasing Cooperative health benefit plans;

(F) use adjusted community ratings (under which the only factors that may be applied are age, gender, and geography within a district) to determine the cost for each covered employee or dependent; and

(G) meet such other criteria as reasonably required by the State or the Secretary, or mandated under this Act.

(2) GOVERNANCE.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall establish a State Health Insurance Purchasing Cooperative governing board comprised of seven members, three of which shall be appointed by the governor of the State and four of which shall be elected by participants of the Health Insurance Purchasing Cooperative within the State. The Governor of the State will serve as an ex officio member of the board.

(B) TERMS.—In establishing such board, a State shall ensure that the terms of the members of the board are staggered.

(C) RESPONSIBILITY.—The board shall be responsible for providing oversight over the functioning of all Health Insurance Purchasing Cooperatives within the State, including monitoring compliance of Health Insurance Purchasing Cooperatives with State law, providing expertise to Health Insurance Purchasing Cooperatives, coordinating activities among districts, and resolving disputes arising in the implementation of this Act.

(3) ACTIVITIES.—Within its district, each Health Insurance Purchasing Cooperative shall—

(A) provide for the comprehensive purchasing of health insurance and services for all small employers;

(B) act as an agent for the small employers and, based on the recommendations of the National Health Board, assist the small employers, employees, and dependents in determining appropriate health benefit plans;

(C) solicit bids from and contract with carriers for specific health benefit plans, which shall include those benefits determined by the National Health Board under section 4, and, notwithstanding any other provision of Federal or State law—

(i) hold confidential proprietary information upon which estimates on bids are derived; and

(ii) issue contracts only to those carriers providing both cost effective and quality health benefits, plans, and services;

(D) administer all aspects of health insurance coverage for all small employers, their employees and dependents, including routine health benefits, COBRA benefits, relevant Federal health insurance earned income tax credits, and the collection of premiums paid under section 1906 of the Social Security Act;

(E) inform employees and dependents about their benefits, rights, and responsibilities and enable employees and dependents to select benefits based on standardized plans that compete in cost and quality; and

(F) in a timely fashion, report, as required by section 5, all relevant data, including health outcomes data, to the appropriate Regional Health Insurance Data Collection Center and the State Health Purchasing Insurance Cooperative Board.

(4) EXCLUSION OF COVERAGE.—Notwithstanding paragraph (1)(C), a Health Insurance Purchasing Cooperative may, in accordance with this subsection, contract with a carrier for a health benefit plan that limits exclusion of coverage, with respect to services related to treatment of a preexisting condition, to a period not exceeding 6 months. The exclusion of coverage shall not apply to services furnished to newborns.

(f) RELATION TO OTHER LAWS.—

(1) ANTITRUST LAWS.—Notwithstanding any provision of the antitrust laws, it shall not be considered a violation of the antitrust laws for a State, in accordance with this section, to develop a State coordinated buying program comprised of Health Insurance Purchasing Cooperatives, or for any carrier, in accordance with this section, to participate in such a program or Cooperative.

(2) DEFINITION.—For purposes of this section, the term "antitrust laws" means—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, commonly known as the "Sherman Act" (26 Stat. 209; chapter 647; 15 U.S.C. 1 et seq.);

(B) the Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717; chapter 311; 15 U.S.C. 41 et seq.);

(C) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, commonly known as the "Clayton Act" (38 Stat. 730; chapter 323; 15 U.S.C. 12 et seq.; 18 U.S.C. 402, 660, 3285, 3691; 29 U.S.C. 52, 53); and

(D) any State antitrust laws that would prohibit the activities described in paragraph (1).

(3) ERISA.—A State whose coordinated buying program meets the requirements of this Act shall require any small employer that chooses to provide a health benefit plan for employees (including a self-insured plan) to provide such plan by purchasing health insurance through a Health Insurance Purchasing Cooperative, notwithstanding the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(a)).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 1993, and $30,000,000 for each of the fiscal years 1994 through 1997.

SEC. 3. NATIONAL HEALTH CARE BOARD.

(a) IN GENERAL.—There is hereby established a National Health Care Board (hereafter referred to in this section as the "Board") which shall be composed of 11 members to be appointed by the President by

and with the advice and consent of the Senate not later than 6 months after the date of enactment of this Act.

(b) MEMBERSHIP.—

(1) REPRESENTATION.—The membership of the Board shall include individuals with national recognition for their expertise in health insurance, health economics, health care provider reimbursement, and related fields. In appointing individuals under subsection (a), the President shall assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, and health care providers and carriers.

(2) CHAIRPERSON.—The members of the Board shall elect a Chairperson.

(3) TERMS.—Members of the Board shall be appointed to serve for terms of 5 years, except that the terms of the members first appointed shall be staggered so that the terms of no more than 4 members expire in any year. The term of the Chairperson shall be coincident with the term of the President. Individuals appointed to fill a vacancy created in the Board shall be appointed for the remainder of the term.

(c) DUTIES.—

(1) PRECEPTS.—The Board shall establish Coordinated Buying Program Precepts, that shall set forth criteria for—

(A) establishing a uniform data system that will assist in designating qualified Health Insurance Purchasing Cooperatives and carriers;

(B) determining and implementing a system for the collection of relevant health outcomes data, including quality monitors, functional status, expense reporting methods (including the costs associated with providing services within State coordinated buying program), demographic and behavioral measures, and changes in clinical conditions as a result of therapeutic interventions expressed in Quality Life Years in a manner that assumes confidentiality of patient information; and

(C) determining and revising, if necessary, appropriate minimum benefit requirements of a qualified health benefit plan, consistent with section 4 and developing additional benefit plans as necessary to provide more extensive benefits.

(2) SCIENTIFIC BASIS.—To the extent practicable, the precepts of the Board shall be derived from an evaluation of the extant scientific literature and outcome data collected under this Act.

(3) ASSISTANCE TO SECRETARY.—The Board shall make written recommendations on at least an annual basis to the Secretary and the States in the planning, development, and implementation of all components of the National Health Insurance Data System established under section 5, including the determination of health outcomes data to be collected through the standardized universal electronic card, and shall provide such other assistance as the Secretary or the States may request.

(d) MISCELLANEOUS.—

(1) AUTHORITY.—The Board may—

(A) employ and fix the compensation of an Executive Director and solicit other personnel (not to exceed 15) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)); and

(D) make advance, progress, and other payments which relate to the work of the Board.

(2) COMPENSATION.—While serving on the business of the Board (including traveltime), a member of the Board shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from the member's home and regular place of business, a member may be allowed travel expenses, as authorized by the Chairperson of the Board.

(3) ACCESS TO INFORMATION, ETC.—The Board shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of original research and medical studies, are coordinated with the activities of Federal agencies. The Board shall be subject to periodic audit by the General Accounting Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, $500,000 for each of the fiscal years 1993 through 1997.

SEC. 4. HEALTH BENEFITS.

(a) ESTABLISHMENT OF REQUIREMENTS.—Not later than 18 months after the date of enactment of this Act, the National Health Board shall establish minimum benefit requirements for health benefit plans offered through Health Insurance Purchasing Cooperatives. Such minimum benefits shall include—

(1) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in paragraph (6)(A);

(2) inpatient and outpatient physician services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in paragraph (6)(B);

(3) diagnostic tests;

(4) prenatal care and well-baby care provided to children who are 1 year of age or younger;

(5) preventive and early intervention services, including—

(A) well child care;

(B) pap smears; and

(C) mammograms; and

(6)(A) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization, residential care, or outpatient treatment may be substituted for days of inpatient care according to a ratio established by the Board; and

(B) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

(i) is a physician; or

(ii) meets the standards of subsection (e)(2)(B) and is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

(b) EXCEPTIONS.—Subsection (a) shall not be construed as requiring the Board to specify that a plan include payment for—

(1) items and services that are not medically necessary; or

(2) experimental services and procedures, except that the Board may include coverage of routine medical costs associated with peer-reviewed and approved protocols conducted in connection with peer-reviewed and approved research programs, pursuant to standards established by the Board.

(c) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—Except as provided in subsection (b), a health benefit plan shall place no limits on the amount, scope, or duration of benefits described in paragraphs (1) through (3) of subsection (a).

(d) LIMITATIONS.—

(1) PANELS AND MANAGED CARE SYSTEMS.—Nothing in State law or this Act shall prohibit a health benefit plan from providing benefits for the items and services described in this section through a managed care system, and from selecting particular health care providers or types, classes, or categories of health care providers to participate in such managed care system. Such managed care system shall provide reasonable access, as defined by the Board, to care by plan enrollees.

(2) DIFFERENT LEVELS OF PAYMENTS.—Nothing in State law or this Act shall prohibit a health benefit plan from establishing a different level of payments for reimbursement for different health care providers furnishing the benefits for the items and services described in this section.

(3) DENIAL OF PAYMENT TO EXCLUDED PROVIDERS.—Nothing in State law or this Act shall require a health benefit plan to make payment to any health care provider that is excluded from participation in any Federal health care program.

(e) MENTAL HEALTH CARE.—

(1) INPATIENT CARE.—Subject to the provisions of subsection (d), inpatient hospital care described in subsection (a)(6)(A) shall include reimbursement for professional care provided to the individual while the individual is receiving such inpatient care, by a physician or duly licensed or certified clinical psychologist operating within the scope of practice of the physician or psychologist, as determined appropriate under State law. Nothing in this subsection shall be construed to modify hospital practices with regard to scope of practice, admitting privileges, or billing arrangements.

(2) OUTPATIENT CARE.—

(A) USE OF PROVIDERS.—Subject to the provisions of subsection (d), a health benefit plan that provided benefits with respect to outpatient psychotherapy described in subsection (a)(6)(B) prior to January 1, 1993, shall not be required under such subsection to provide benefits for outpatient psychotherapy provided by any health care provider (or type, class, or category of health care provider) described in subsection (a)(6)(B)(ii), other than duly licensed or certified clinical psychologists and health care providers being used by the plan on January 1, 1993. This subparagraph shall not apply to plans offered under part C.

(B) STANDARDS FOR CERTAIN PROVIDERS.—The Board shall establish standards that providers referred to in subsection (a)(6)(B)(ii) must meet to be eligible for payment under a health benefit plan and such standards shall require that such providers have training and education equivalent to a licensed clinical social worker (as defined in title XVIII of the Social Security Act).

(f) ADDED BENEFIT PLANS.—Not later than 24 months after the date of enactment of this Act, the Board shall establish minimum benefit requirements for two additional health benefit plans that—

(1) shall provide benefits more extensive or more innovative, such as new models of orga-

nized or managed care, than those provided by the plan developed under subsection (a); and

(2) may be compared on the basis of cost and quality outcome measures.

(g) STUDIES.—

(1) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Board shall—

(A) review the appropriateness of the minimum benefits and services required to be covered under subsection (a); and

(B) review the effects of State benefit and provider mandates; and

(C) prepare and submit to the Secretary and the appropriate committees of Congress a report concerning the cost-effectiveness and desirability of such benefits and services and making recommendations for changes in the list of such benefits and services.

(2) BIENNIAL REPORT.—Not later than 2 years after the date on which the report is submitted under paragraph (1), and every 2 years thereafter, the Board shall prepare and submit to the Secretary and the appropriate committees of Congress a report updating the preceding report and reviewing, consistent with paragraph (1), the additional benefits and services included in the plans developed under subsection (f).

(h) EXEMPTION FROM HMO REQUIREMENTS.—Section 1301 of the Public Health Service Act (42 U.S.C. 300e) is amended by adding at the end thereof the following new subsection:

(d) The provisions of this title relating to health services offered by a health maintenance organization shall not apply with respect to those health maintenance organizations that provide services that meet the requirements for health insurance plans offered through Health Insurance Purchasing Cooperatives under section 4 of the Health Insurance Purchasing Act.".

SEC. 5. NATIONAL HEALTH INSURANCE DATA SYSTEM.

(a) IN GENERAL.—Using advanced technologies to the maximum extent practicable, the Secretary shall establish and maintain a National Health Insurance Data System, which shall be comprised of—

(1) a centralized National Data Base for Health Insurance and Health Outcomes Information;

(2) a network of no more than five Regional Health Insurance Data Collection Centers; and

(3) a standardized, universal mechanism for electronically processing health insurance and health outcomes data.

(b) NATIONAL DATA BASE FOR HEALTH INSURANCE INFORMATION.—The National Data Base for Health Insurance Information shall—

(1) be centrally located;

(2) rely on advanced technologies to the maximum extent practicable; and

(3) be readily accessible by each State coordinated buying program for data input and retrieval.

(c) REGIONAL HEALTH INSURANCE DATA COLLECTION CENTERS.—The Secretary shall designate not more than five regional centers, to be located throughout the United States, for the initial collection and analysis of data on each State coordinated buying program, as described in section 3(c)(1)(B), and such other information as determined useful to the Secretary or the National Health Board. The regional centers shall transmit relevant data, as determined appropriate by the Secretary and the National Health Board, to the National Data Base for Health Insurance and Health Outcomes Information.

(d) ELECTRONIC DATA COLLECTION CARD.—The Secretary, upon the recommendation of the National Health Board, shall—

(1) establish uniform billing and claims forms and mandatory reporting requirements, including information on member eligibility, benefits, use, outcomes, and efficacy, which shall be adopted for use by each State and State coordinated buying program receiving funding under section 2; and

(2) ensure that no State receives funding under this Act if carriers in such State do not agree to issue to each participant in the State coordinated buying program an electronic data processing card approved by the Secretary that shall—

(A) contain information, as determined necessary by the Secretary and the National Health Board, which can be conveyed electronically to a regional data processing center; and

(B) enable health care providers to enter information into a participant's file concerning administrative matters, treatment, such as diagnosis based on standard codes, and outcome, except that participating health care providers must agree to provide data in standard format, which shall be established by the Secretary and the National Health Board.

(e) RELIGIOUS OBJECTIONS.—Nothing in this Act shall be construed to require any State coordinated buying program or Health Insurance Purchasing Cooperative to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under a health benefit plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

(f) CONFIDENTIALITY.—The Secretary, upon the recommendation of the National Health Board, shall ensure that all patient information collected under this section is managed so that confidentiality is protected.

(g) AUTHORIZATION OF APPROPRIATIONS.—There shall be authorized to be appropriated, annually, $1,000,000 for fiscal years 1993 through 1997.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) BONA FIDE ASSOCIATION.—The term "bona fide association" means any entity that—

(A) offers health insurance plans that comply with all Federal and State requirements applicable to the association group market, including the criteria established in section 2(e);

(B) has 100 or more employers serving a single or related industry or profession; and

(C) has formed for purposes other than to purchase insurance.

(2) CARRIER.—The term "carrier" means any person or entity that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a pre-paid hospital or medical service plan, or a health maintenance organization or self-insured plan.

(3) ELIGIBLE EMPLOYEE.—The term "eligible employee" means, with respect to an employer, an employee who normally performs on a monthly basis at least 30 hours of service per week for that employer.

(4) HEALTH BENEFIT PLAN.—The term "health benefit plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract, including any self-insured plan or Multiple Employer Welfare Arrangement, but does not include any of the following offered by a carrier—

(A) accident only, dental only, disability only insurance, or long-term care only insurance;

(B) coverage issued as a supplement to liability insurance;

(C) workmen's compensation or similar insurance; or

(D) automobile medical-payment insurance.

(4) HEALTH MAINTENANCE ORGANIZATION.—The term "health maintenance organization" has the meaning given the term "eligible organization" in section 1876(b) of the Social Security Act.

(5) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(6) PREEXISTING CONDITION.—The term "preexisting condition" means, with respect to coverage under a health benefit plan issued to a small employer, employee or dependent by a carrier, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage (without regard to any waiting period).

(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(8) SMALL EMPLOYER.—The term "small employer" means, with respect to a calendar year, an employer that normally employs at least 1 but less than 51 eligible employees on a typical business day. For the purposes of this paragraph, the term "employer" includes a self-employed individual.

SUMMARY OF THE HEALTH INSURANCE PURCHASING COOPERATIVES ACT

THE SMALL GROUP INSURANCE MARKET IS BROKEN

In comparison with workers in large firms, employees in small companies are less likely to be insured and lose health insurance benefits more frequently. It costs small firms a lot more to administer insurance for their employees, adding to premium costs.

Only 31 percent of workers in firms with less than 25 employees have any insurance coverage, and over 2 million workers lost coverage in 1990. Small business pays as much as 35 cents on a dollar to administer insurance, compared with about 6 cents for a larger company.

HOW WILL HIPC'S HELP?

The Bingaman-Durenberger bill, The Health Insurance Purchasing Cooperatives Act takes a step toward fixing the small group market. Health Insurance Purchasing Cooperatives (HIPCs) help small business in the selection and administration of health insurance by:

Acting as a health benefits office helping employees select wisely on the basis of reliable cost and quality information;

Serving as the exclusive purchasing agents thus streamlining and reducing the costs of buying and administering plans; and

Saving money for all buyers. HIPCs will cost $133 million over 4 years and CRS data indicates HIPCs could save as much as 10 percent in premiums.

HOW DO HIPC'S WORK?

Each state will have the option to apply for federal start-up grants to establish HIPCs for small employers (less than 50 employees). Once operational, HIPCs will be fiscally self-sufficient.

States will establish: regional HIPCs based on geography and population to achieve economies of scale; and, a State HIPC Board to provide oversight, ensure compliance with state and federal laws, and coordinate activities.

HIPCs will: serve as purchasing agents for all small businesses, solicit bids for specific benefits packages and purchase large blocks of insurance, thus motivating providers and carriers to offer high quality, cost-effective services and coverage; and, serve as health benefits offices participating employers, providing information to employees about comparative health plan benefits.

ROLE OF THE FEDERAL GOVERNMENT

National Health Care Board: An 11 member National Health Care Board representing a spectrum of participants in our health care system to: develop model health insurance packages with periodic review; and, establish data collection requirements for quality monitors, expense reporting and health outcome and efficacy data.

National Health Insurance Data System: The Department of Health and Human Services (DHHS) will establish a comprehensive national data base for health information, including standardized magnetic cards for beneficiaries to collect billing data, eligibility and health outcomes.

HIPC's Promote Important Health Care Values: Encourages equity among large and small firms; makes health insurance more affordable; contains costs through smart buyers and economy of scale; supports individual choice among competing plans; and promotes competition on the basis of price and quality.

Mr. DURENBERGER. Mr. President, one of the refreshing breezes in the winds of change blowing through this city and this chamber is the call from the American people that we devote ourselves to the common interest of all, rather than the special interest of the few well financed groups who make so much noise in Washington.

One of the best ways we can serve the common interest of Americans is to address the welfare of our Nation's small businesses. The business pages of our newspapers and the ads we see on TV don't communicate it, but small business is the backbone of our economy. That's where most Americans work. That's where most innovation takes place. That's where our economy will stand or fall.

And that's why Senator JEFF BINGAMAN and I are here on this floor this morning to introduce the Health Insurance Purchasing Cooperative Act, S. 3165. One of the best things we can do to help small businesses move ahead is to help them to deal with health insurance. Affordable, reliable, quality coverage for employees is an absolute must to attract employees and be competitive, but the dysfunctional marketplace for health insurance is not providing that to small businesses. That's why this legislation is so necessary.

What the Senator from New Mexico and I propose to do is to use a solution to fix this urgent problem that is based on a concept we know well. We want to encourage the States to establish health insurance cooperatives—HIPC's—so that small businesses can band together to buy insurance.

The history of the economic progress of America's heartland is largely the story of the cooperative movement. Rural citizens have always faced the economic disadvantages of geographic dispersion and distance, which meant they paid higher prices for goods and services than their urban neighbors or they didn't get them at all.

But rural citizens in my State, drawing from their Scandinavian heritage, founded cooperatives first to buy the things they needed—electricity, motor fuel, consumer goods—and then sell the things they produced—farm commodities, lumber and the like. Co-ops have generated buying power, better information and a level playing field for rural citizens for generations.

Small businesses face those same kinds of competitive disadvantages when they enter the market for health insurance. Large companies get the best rates and broadest coverage; small companies often pay far more for lesser coverage, and some are forced into the situation of being lucky to get any coverage at all. Establishing health insurance buying coops is part of the solution to that problem.

We know that these cooperatives arrangements will reduce costs of insurance. The Congressional Research Service estimates that there would be a 10-percent reduction in health insurance premiums if the HIPC's were in place. Mr. President, in this era of double digit health care inflation, a 10 percent reduction is nothing short of miraculous.

Under our bill, the States would have the option of establishing HIPC's. These coops will:

Any health plan offered to members would be required to provide information on how its costs compare with other plans; all plans would also have to provide information to consumers on the quality of the services it offers.

Act as a health benefits office. That means it would help employees make wise selections among the plans that are available;

Serve as exclusive purchasing agents for small business. This service creates one-stop shopping for small business seeking insurance. The HIPC relieves them of the burden of selecting and monitoring insurance companies.

The HIPC's will provide small business purchasers with efficient service and greater choice, which is now available only to larger groups like government workers and employees in big firms. HIPC's give small firms the market power of larger ones. They offer economies of scale for employers and wider and more meaningful choice for employees.

It has worked throughout our Western States, and it will work for America's small businesses.

Mr. President, we have a long hard journey ahead of us before we arrive at the kind of health care system the American people need and deserve. Our goal is universal access to high quality care through a system of universal coverage of financial risk.

How do we get there from here?

In a time of expanding needs and soaring deficits, our greatest need is to improve the productivity of our system: finding ways to help the system produce more services with fewer resources. Every actor in the system—consumers, insurers, employers, providers, and yes, even government, must learn to do what it does best.

The path of greater government control of private health care decisions will not take us there, in my view. Government always produces less at a greater cost. Government can do a better job, but greater regulation is not the answer.

Instead, government needs to apply its energy to restoring the greatest productivity-enhancer humankind has ever invented: the marketplace. When the market fails, as it has in the small business insurance area, government should step in and fix it. Members of the so-called Jackson Hole health reform group and I call this concept managed competition, and it is the only alternative to government health care.

S. 1872, which I have introduced with Chairman BENTSEN of the Finance Committee is a companion bill to this bill. It reforms the health insurance market from the sellers side, ending business practices which have increased the cost and reduced the supply of coverage for small businesses. Shortly I will also introduce legislation to amend ERISA to allow states to require self-insured companies to participate in financing expansion of health care access to uninsured people. There are important steps down the road to functional health marketplaces.

Mr. President, when the American people call for change I believe they are asking us to address the basic problems that confront them every day. For thousands of businesses and millions of workers and their families, health insurance is a daily concern. This bill will help restore a measure of fairness and affordability to them and move America toward a healthier future.

On the campaign trail, and in this chamber, there are fundamental differences on health policy. But what health reform needs right now is not more emotion, but more forward motion. I urge my colleagues to study this modest step and join us as cosponsors.

I am saddened, Mr. President, by the increasingly partisan nature of the health reform debate in the last week or two. To fix the problems in our health care system requires bipartisan cooperation, not bickering between the parties. Frankly, Mr. President, I believe that either party can do this alone.

I think it is particularly important to continue to be bipartisan. The Bingaman-Durenberger bill is bipartisan. It will do good for small business owners; it will do good for employees of small business. I urge my colleagues on both sides of the aisle to support it.

By Mr. DECONCINI:

S. 3166. A bill to amend the Food Stamp Act of 1977 to provide that narcotic addicts or alcoholics, and their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcohol treatment program shall not be considered residents of institutions and shall be considered individual households, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD STAMPS FOR ELIGIBLE CHILDREN IN RESIDENTIAL DRUG TREATMENT

• Mr. DECONCINI. Mr. President, today I am introducing legislation which would amend the Food Stamp Act of 1977 to allow eligible children who accompany a parent into residential substance abuse treatment to participate in the Food Stamp Program. Under current law, "narcotic addicts or alcoholics" who are eligible for the Food Stamp Program can use food stamps for their meals while they are in residential treatment, while otherwise eligible family members who may accompany that individual into treatment are prohibited from doing so. Once these family members enter a treatment facility, current law dictates they can no longer receive food stamps for the duration of their stay. Depending upon the treatment facility, these individuals are expected to pay for their meals or they are forced to depend upon the largess of the facility. Such a policy is a deterrent to participation in a treatment approach which has proved successful in keeping families together and in breaking the cycle of addiction from one generation to another.

Because most of the children will have been receiving food stamps before moving to the treatment center, my bill would not significantly increase the spending for the Food Stamp Program. The Congressional Budget Office has estimated that my legislation would cost the Treasury less than $500,000 next year. It would cost only $4 million over 5 years.

The potential cost savings, however, are significant. Mr. President, I do not have to remind anyone in this body of the devastating effect drugs are having on families in American today. The Institute on Medicine, using data from the National Institute on Drug Abuse's Household Survey, has estimated that each year between 350,000 and 625,000 infants are exposed to one or more illegal drugs in uterus. Special care for cocaine-exposed babies adds more than $500 million a year nationally to the costs of normal labor, delivery and newborn care. The $500 million covers hospital costs for cocaine-exposed infants only, and does not include the money we spend each year on foster care for these children nor does it include the special care some of these children require in order to be prepared and ready for school.

Given the magnitude of these costs, effective treatment programs for mothers who abuse drugs, including alcohol, could yield significant savings within their first year of operation. Nevertheless, despite recommendations of researchers over the past 2 decades, women and children have been the lowest priority in terms of delivered drug treatment services. It has been estimated, for example, that 280,000 pregnant women in this country need drug treatment, but only 1 in 10 receives any help—1989 survey by the National Association of State Alcohol and Drug Abuse Directors. And according to the National Council on Alcoholism, women account for only 20 percent of those in treatment for alcoholism.

Only recently have we witnessed a new national effort to provide treatment resources for this long-neglected vulnerable population. Toward this end, an increasing number of treatment centers are permitting substance-abusing women to bring their children with them into residential treatment. This approach removes one of the major barriers to recovery for low-income mothers, particularly single mothers, who all too often are forced to choose between the treatment they need and the children they love. It's a choice with the cards stacked against families. Mothers who do opt for treatment are frequently forced to put their children into an already overburdened foster care system.

Moreover, studies indicate that mothers whose children reside with them during treatment for substance abuse consistently stay in treatment longer than women separated from their children, thereby increasing their chances of recovery. Amity, Inc. offers long-term residential treatment in my home town of Tucson, Arizona. According to officials there, it is common for women enrolled in the Amity therapeutic community to have left their children in drug houses as collateral for drug trades, or even to have sold them for drugs.

Prior to August 1981, the Amity program had been traditionally male dominated. Changes were instigated that August, and a specialized women's program was put in place. As space permitted, women were allowed to bring their children into treatment with them. Mr. President, the results are impressive. Women whose children resided with them during drug treatment at Amity stayed in treatment longer than women separated from their children—506 days versus 182 days, on average.

We see similar results at Odyssey House in New York City. Seventy percent of the adult population there are parents. Sixty-eight percent are second or third generation substance-abusers. Mothers who are allowed to bring their children into treatment with them stay at Odyssey House twice as long as those without children.

Operation PAR is a comprehensive substance abuse treatment organization in the Tampa Bay area of Florida. It takes a family approach to treating addiction.

Operation PAR has data which support the notion of a high early dropout rate among women in residential treatment facilities which do not address women's issues. In these facilities, 23 percent of the men left treatment within the first 60 days. In contrast, 63 percent of the women left within this same time frame. And the reason most women gave for leaving treatment? They needed to go home to take care of their children.

To repeat: We have in place a food stamp policy which is a blatant deterrent to family participation in residential treatment programs which have been proven effective in treating addiction. Mr. President, we have a precedent for changing such a policy. In 1980, Congress amended the Food Stamp Act to allow eligible women and children residing in shelters for battered women to use food stamps for their meals. I see little difference between this category of individuals and the families of substance abusers in residential treatment centers as far as their need for food stamps is concerned.

Mr. President, I ask for my colleagues' support in my legislation. This change in our food stamp policy will help preserve families, provide for protection of children and increase the opportunity for successful recovery from addiction. I ask unanimous consent that the text of my legislation be printed in the RECORD.

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

S. 3166

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

SECTION 1. TREATMENT OF CHILDREN OF NARCOTIC ADDICTS OR ALCOHOLICS PARTICIPATING IN DRUG OR ALCOHOLIC TREATMENT PROGRAMS.

(a) IN GENERAL.—The last sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after "narcotic addicts or alcoholics" the following: ", together with their children,".

(b) CONFORMING AMENDMENT.—Section 3(g)(5) of such Act is amended by inserting after "or alcoholics" the following: ", and their children,".•

By Mr. DURENBERGER:

S. 3167. A bill to amend the Federal Crop Insurance Act to modify the provisions governing yield averages, to provide late planting coverage and prevented planting coverage, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL CROP INSURANCE FAIRNESS ACT

• Mr. DURENBERGER. Mr. President, I rise today to introduce the Federal Crop Insurance Fairness Act, S. 3167. This bill has taken 6 months to draft and goes a long way toward improving the Federal Crop Insurance Program. The FCIC Fairness Act will make the program more fair for farmers by giving them adequate coverage for their actual crop yields. It will also help taxpayers by increasing participation in Federal crop insurance and reducing the reliance that American agriculture has on ad hoc disaster assistance.

The best thing about this bill is that it was created by the real crop insurance experts—the farmers themselves. In the spring of 1991, Minnesota farmers suffered under heavy rains which either damaged their eventual yield or prevented farmers from planting altogether. Early this year, I met with Minnesota corngrowers who told me how Federal crop insurance failed to deliver when they finally needed to collect.

These farmers realized too late that the Federal Crop Insurance Program was unable to offer them adequate coverage. The reason for this is that farmers who are new to FCIC programs often have to supplement their actual production history with as many as nine transitional yields, or regional averages, to fulfill the 10-year FCIC production requirement. For many farmers, their yield coverage is lowered by these regional averages. It was clear to these Minnesota farmers last fall, and it is clear to them now, that a new formula for determining yield coverage is needed. I have worked with farmers to come up with a fair yield average formula. This bill does that.

The FCIC Fairness Act reforms the yield coverage provisions in order to more clearly reflect a farmer's actual production. This is done by limiting the use of transitional yield data to no more than 4 years.

Farmers currently have to provide 10 years of production history to be insured by FCIC. Since most farmers do not have 10 years of actual yield data when they enter the crop insurance program, they are forced to supplement their actual yield data with as many as 9 years of transitional yield data. Transitional yields work against the farmer by lowering his coverage, and work against FCIC by discouraging farmer participation in the program. The current system also works against the American taxpayers by forcing costly ad hoc disaster assistance during times of regional drought or heavy rains.

Inadequate coverage is the most glaring problem with FCIC, that is why this program has never lived up to its expectations. It has never given farmers a viable and fair alternative to ad hoc disaster payments. S. 3167 gives farmers the confidence that Federal crop insurance will be better for them than taking a risk with disaster assistance.

The FCIC Fairness Act requires farmers to provide no more than 4 years of transitional yield data if they cannot provide 4 or more years of actual production history. A farmer will build upon his production history until he has 4 years of actual production data. Once a farmer reaches 4 years of actual production data, he will just continue to build on that until he has 10 years of actual data. This will ensure that farmers get adequate coverage.

Furthermore, it provides for a minimum yield coverage floor which will protect farmers from having a string of disasters, lower their coverage to an artificially low level. This way, if a farmer has 1 year of good actual production and 3 years of zero production, he can still purchase adequate coverage.

The FCIC Fairness Act also improves late planting coverage by extending the late planting period 5 days to 25 days after the final planting date. It changes the reduction in coverage from 10 percent every 5 days to 1 percent per day for the first 10 days to 2 percent per day for the remaining 15 days.

And, S. 3167 increases prevented planting coverage by 15 percent, guaranteeing farmers fully 50 percent of the coverage for their crop if natural disasters prohibit them from planting.

Under the FCIC Fairness Act, both late planting coverage and prevented planting coverage will be included as part of the basic FCIC policy. This will protect farmers who in the past have been unaware that they needed to request these options from their agent—and have lost their coverage.

Mr. President, this is a good bill. The Federal Crop Insurance Fairness Act is a bill by farmers for farmers. These changes will make the program more farmer friendly and, through increased participation, will finally put the Federal Crop Insurance Corporation on sound footing.

I am proud to say that this bill is supported by the National Association of Wheat Growers, American Soybean Association, National Corn Growers Association, National Barley Growers Association, American Oat Association, Minnesota Corn Growers Association, Minnesota Soybean Association, Minnesota Association of Wheat Growers, and Minnesota Barley Growers Association.

I urge my colleagues to join me in support of this bill.•

By Mr. SARBANES:

S. 3168. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

ACID MINE DRAINAGE ABATEMENT ACT

• Mr. SARBANES. Mr. President, today I am introducing legislation to help address a serious pollution problem—acidic runoff from abandoned coal mines—which continues to degrade the water quality of our Nation's rivers and streams. My legislation would enable States to utilize more of their allocations under the Abandoned Mine Reclamation Fund for environmental remediation activities.

Abandoned mine drainage is the unfortunate legacy of coal mining in the years before environmental laws were enacted requiring coal companies to reclaim mined land. After the coal was extracted, the land was left riddled with coal waste, known as gob piles, and pock-marked with holes. The mining activity also unearthed sulfur compounds and metals such as aluminum, manganese, and iron. When exposed to the elements, the sulfur compounds produce sulfuric acid which in turn leaches metal loads into the streams, poisoning the water and killing the fish. There are in excess of 7,600 miles of streams in 11 States that are adversely affected by abandoned mine drainage.

In the Appalachian region, which suffers the most serious mine drainage problems, the acidic runoff has left a major segment of our Nation's river, the Potomac River, virtually devoid of life. Much of the North Branch of the Potomac, from its headwaters near Kempton, MD to the Jennings Randolph Lake, is biologically dead. I recently visited this area and an abandoned mine site just north of the Jennings Randolph Lake and saw firsthand the environmental devastation caused by acid mine drainage. Nearly 700 miles of the North Branch's streams are currently incapable of supporting fish and other aquatic life because of this drainage. Along this stretch of the Potomac there are over 4,000 acres of abandoned mine lands, including the worst offender, Kempton Mines, which discharges approximately 3 million gallons of abandoned mine drainage each day.

The Surface Mining Control and Reclamation Act of 1977 [SMCRA] established a regulatory program for current mining activities requiring land reclamation and control of acid drainage at active mine sites to assure that today's mines do not become tomorrow's abandoned mines. It also established an abandoned mine lands reclamation [AML] fund, paid for by a fee imposed on current mining production, to address problems caused by abandoned coal mines. Current law and regulations require that priority be placed on alleviating public health and safety problems posed by abandoned mine

lands. However, States are authorized to set aside up to 10 percent of their allocations under the AML fund annually in a special account for addressing adverse environmental effects caused by abandoned mine acid drainage. These funds are insufficient to clean up the acid mine drainage problems.

My bill would provide greater flexibility for States to use existing abandoned mine reclamation funds for acid mine drainage abatement as well as health and safety problems. Specifically, it would increase from 10 to 30 percent the portion of a State's abandoned mines reclamation funds that could be set aside for addressing environmental problems caused by acid drainage. Additionally, it authorizes a discretionary grants program enabling States to apply for up to a 50-percent cost share of an acid mine abatement project, potentially doubling available funds. I ask unanimous consent that a section-by-section analysis of this bill be included in the RECORD.

Mr. President, great progress has been made in restoring the health of America's rivers in the 3 decades since President Lyndon Johnson vowed to make the Potomac a national model for restoring the Nation's waters. Today, much of the Potomac is a haven for fish and wildlife and provides tremendous recreational and economic opportunities. However, the North Branch of the Potomac remains in marked contrast to these improvements. The States of Maryland and West Virginia and the Interstate Commission on the Potomac River Basin have been working together in a cooperative effort to restore the North Branch's health, thereby improving the quality of life and opening tremendous opportunities for economic development including tourism and outdoor recreation. Unfortunately, the job cannot be accomplished without the assistance made available under this legislation. The North Branch of the Potomac is only one of many areas that could greatly benefit from improved environmental conditions made possible by this measure.

I urge my colleagues to join me in supporting this bill in order to provide States with the flexibility and additional resources needed to better address environmental problems associated with acid mine drainage.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION-BY SECTION SUMMARY OF THE ACID MINE DRAINAGE ABATEMENT ACT OF 1992

Section 1: Short Title.—This legislation may be cited as the "Acid Mine Drainage Abatement Act of 1992."

Section 2: Acid Mine Drainage.—This section modifies the set-aside provisions so states can use higher amounts of allocated funds for environmental remediation. Current law allows states to retain up to 10% of their annual funds to establish either an interest bearing account to redress public health and safety problems beyond 1995 when the act is scheduled to expire, or to establish a special acid mine drainage abatement and treatment fund to redress adverse environmental effects from acid mine drainage. This bill allows states to take advantage of both set-asides, retaining the 10% set-aside for the post-1995 interest bearing account while raising the percentage for the acid mine drainage abatement and treatment fund to 30% instead of 10%.

This section also allows states to apply to the Secretary of the Interior for grants to alleviate the adverse environmental effects of acid mine drainage in qualified hydrologic units, abandoned areas covered by the Act that have biological resources that have been adversely affected by acid mine drainage. The grant would be taken out of a Secretarial discretionary account from unused acid mine funds. The Secretary could cost share up to 50 percent of the cost for any acid mine abatement or treatment project.•

By Mr. LAUTENBERG:

S. 3169. A bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes; to the Committee on Labor and Human Resources.

PREVENTING OUR KIDS FROM INHALING DEADLY SMOKE [PRO-KIDS] ACT OF 1992

• Mr. LAUTENBERG. Mr. President, I rise today to introduce the Preventing Our Kids from Inhaling Deadly Smoke [PROKIDS] of 1992. PROKIDS would protect children from secondhand smoke while they are participating in federally funded children's programs such as Head Start, WIC, health care and day care programs. This bill would require participants in federally funded programs to establish a nonsmoking policy if they provide health services to children under the age of 5 or provide other social services primarily to children under the age of 5.

Mr. President, this legislation is designed to prevent our children from being exposed to a carcinogen, environmental tobacco smoke or secondhand smoke. In a recent draft report, the Environmental Protection Agency concluded that secondhand smoke was indeed a group A carcinogen, a group that includes toxins such as asbestos, benzene and arsenic.

The evidence is clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA, an estimated 2,500 to 3,300 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke. Secondhand smoke causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations. Furthermore, secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children. In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease and emphysema and that approximately 50 percent of all children are exposed to secondhand smoke.

This legislation is not overreaching or burdensome. This legislation would simply require nonsmoking policies that would limit indoor smoking in facilities associated with these federally funded programs to those areas which are not normally used to serve children and which are ventilated separately from these areas. Evidence accumulated by the EPA and other entities shows that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the rooms used by the children. In cases where unusual extenuating circumstances prevent total compliance, programs could apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible.

Mr. President, the Federal Government has a series of requirements that grantees must comply with in order to receive Federal funds. In order to receive Federal funding, grantees must certify to the Federal Government that they are complying with Federal laws like the Drug-Free Workplace Act and the Americans With Disabilities Act. I would also note that this legislation will not establish a smoking policy or stop funding to an entity if a person defiantly smokes in front of children. It simply requires that the recipients adopt such a nonsmoking policy and make a good faith effort to enforce it.

The Department of Health and Human Services has already banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We've banned smoking on all domestic airplane flights. Children are the most vulnerable members our society. They depend upon us to protect them and safeguard their health. They are the future of this country. Isn't it time to give our children, especially those who depend on the Federal Government for valuable services like health care and preschool training, the same protection we already accord to some Federal workers and airplane travelers?

As a Department of Health and Human Services report notes:

> Twenty-five years ago, smoking in the workplace and public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke.

We've come a long way, baby. But we still have a way to go. We should prohibit smoking in federally funded institutions which serve children under the age of 5 immediately, so that our children can breath healthy air.

This legislation has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research.

I urge my colleagues to support this legislation.

I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

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

S. 3169

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventing Our Kids From Inhaling Deadly Smoke (PRO-KIDS) Act of 1992".

SEC. 2. PROHIBITION OF FEDERAL FUNDS OR FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no Federal funds or financial assistance may be provided to, or used by, any person with respect to the provision of children's services by such person, unless such person establishes and makes a good faith effort to enforce a nonsmoking policy that meets or exceeds the requirements of subsection (b).

(b) NONSMOKING POLICY.—A nonsmoking policy meets the requirements of this subsection if such policy prohibits smoking in each portion of an indoor facility used in connection with the provision of children's services, and, where appropriate, such policy requires that signs reading "no smoking" be posted in each such facility to communicate the policy. Such policy may allow smoking in those portions of the facility—

(1) in which such services are not normally provided directly to children; and

(2) that are ventilated separately from those portions of the facility in which such services are normally provided directly to children.

(c) WAIVER.—A person described in subsection (a) may publicly petition the Federal agency from which the person receives Federal funds or financial assistance for a waiver of the requirements of subsection (b). A waiver may be granted, after an opportunity for public hearing and comment, only if the person provides assurances satisfactory to the Federal agency that—

(1)(A) unusual extenuating circumstances prevent the person from establishing or enforcing the nonsmoking policy described in subsection (b) (such as the person shares space in an indoor facility with another person and cannot obtain an agreement with the other person to abide by the nonsmoking policy described in subsection (b)); and

(B) the person will establish and make a good-faith effort to enforce an alternative nonsmoking policy that will protect children from exposure to environmental tobacco smoke to the maximum extent possible; or

(2) the person will establish and make a good-faith effort to enforce an alternative nonsmoking policy that will protect children from exposure to environmental tobacco smoke to the same degree as the policy described in subsection (b).

(d) TECHNICAL ASSISTANCE.—The Secretary of Health and Human Services (or a designee of the Secretary) shall provide technical assistance to Federal agencies and other persons who request such assistance, including—

(1) information on smoking cessation programs for employees; and

(2) information to assist such agencies and persons in complying with this Act.

(e) DEFINITIONS.—As used in this section:

(1) CHILDREN.—The term "children" means individuals who have not attained the age of 5.

(2) CHILDREN'S SERVICES.—The term "children's services" means—

(A) direct health services routinely provided to children; or

(B) any other direct services routinely provided primarily to children.

SEC. 3. EFFECTIVE DATE.

This Act shall become effective on October 1, 1992.•

By Mr. DIXON:

S. 3170. A bill to suspend until January 1, 1995, the duty on certain toys representing troll figures; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN TOYS

• Mr. DIXON. Mr. President, I am introducing legislation today to temporarily suspend the duty on troll toys. This bill is simple and noncontroversial. It eliminates the duty on toys representing troll figures that are not produced in the United States. It is a reasonable request.

U.S. companies have been granted duty suspension for imported toys that are not cost effective to make in the United States. Already we provide tariff suspension to stuffed toys under 30 inches tall. We also provide tariff suspension to imported products that create employment in the United States. This product fulfills both these conditions.

The doll is a flesh-colored plastic figure standing erect on two legs and is approximately 2½ inches tall and comes dressed in over 500 costume options. All the troll dolls are accessorized in the United States by U.S. workers.

In addition, the distribution centers for these troll dolls employ hundreds of workers. In my State of Illinois, I have a distribution center that employs approximately 200 people. These are decent jobs with decent wages. The U.S. harmonized tariff system was not created to handicap U.S. workers.

These dolls are very, very popular with children. A duty suspension is also appropriate to reduce consumer costs since there are no competing U.S. manufacturers.

Mr. President, this is a meritorious bill, and I look forward to working with my colleagues to ensure its prompt enactment.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 3170

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

SECTION 1. CERTAIN TOYS REPRESENTING TROLLS OR TROLL FIGURES.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.95.03 Toys representing trolls or troll figures (provided for in subheading 9503.49.00)	Free	No change	No charge	On or before 12/31/94."

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.•

By Mr. DODD (for himself, Mrs. KASSEBAUM, and Mr. KENNEDY):

S. 3171. A bill to amend the Head Start Act to improve certain provisions with respect to training, and for other purposes; to the Committee on Labor and Human Resources.

HEAD START TRAINING IMPROVEMENT ACT

• Mr. DODD. Mr. President, today I am introducing legislation that addresses an aspect of Head Start that is just as critical to meeting the needs of low-income children as expanding their opportunities to participate. I speak of the quality of the program itself and the training Head Start staff receive so they can ensure that quality. I am pleased to have as cosponsors Senators KASSEBAUM and KENNEDY, both of whom are tireless champions of the Head Start Program.

When we speak of Head Start, we often focus on the idea of giving every eligible child the opportunity to participate. No one could be more supportive of this goal than I, as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, which oversees Head Start. In 1990, I sponsored legislation authorizing for the first time full funding for Head Start. But that legislation accomplished more than just authorizing the money so that every child could find a place in Head Start. It also focused on the need to make sure that, when they got into the program, they would be met with high quality services. For without ensuring quality, the effects of increased participation will surely be blunted.

The Head Start Training Improvement Act continues this theme. It concentrates on the most critical element of early childhood programs, the qualifications of its staff. Studies have shown that staff training, more than any other individual factor, determines the quality of a program. In the 1990 re-

authorization, we set aside funds for training, so access to training will grow as the program grows. We also required that by 1995 every Head Start classroom would have a teacher with at least a child development associate [CDA] credential. The legislation I am introducing today would help make sure the increased training funds are spent efficiently and effectively and ensure that the CDA credential remains within reach of early childhood professionals.

The legislation clarifies existing language regarding a national credentialing program for early childhood and child care providers, that is, the CDA. The CDA is earned through a mixture of classroom training and practical experience and therefore provides an excellent opportunity for providers to improve their qualifications. Many Head Start parents, working in the program, have sought to obtain this credential. Since 1985, a national organization, the Council for Early Childhood Professional Recognition, has received a grant through Head Start to administer the CDA program, thereby keeping the credential's cost within reach of workers who are chronically underpaid. The legislation I am offering ensures that funding for this program will continue and that early childhood workers will continue to have access to a credential that helps ensure quality services and gives them a boost up the career ladder, as well.

The legislation also would require the Department of Health and Human Services to develop a systematic approach to training, including setting specific goals for program improvement and staff development. This approach must ensure continuing input from the Head Start community. We are pumping a lot of money into Head Start training, approximately $44 million in 1992, up from about $28 million in 1990. We need to know how this money is being used, where we want to go with improving Head Start qualifications, and how we are going to get there. The National Head Start Association has listed the need for this type of approach to training as a major policy priority.

A third provision would require the Secretary to fund staff training in helping children cope with the effects of living amidst community violence. A few weeks ago, I chaired a hearing on children and violence at which experts testified that children exposed to chronic violence can suffer deep psychological and development harm. I believe it is imperative that Head Start staff be prepared to help children whose communities are under siege.

Finally, the legislation explicitly provides that Head Start training funds may be used for programs that teach staff how the performing and visual arts, as well as interactive video programming, may be used to enhance children's learning experiences. In one such program, the Wolf Trap Institute for Early Learning Through the Arts has worked with early childhood programs all over the country to show how the arts can help young children acquire a variety of skills and concepts. Public broadcasting in my own State of Connecticut and around the country has been exploring the idea of using television programming as a training and learning tool. For example, this approach has been used effectively by the Children's Television Workshop, which built on "Sesame Street" with activities and learning materials to be shared by children, child care providers, and parents. The program enhances, rather than replaces, normal activities offered by the provider.

Mr. President, these are small changes, to be sure. But they fine tune an area that cannot be overlooked as we push to expand Head Start. For preschools, just being there is not enough. They have to have teachers and other staff who are knowledgeable about their ways of learning, about the problems their families face; staff who can challenge and stimulate them so they enter school ready to learn. I hope my colleagues will join me in supporting these adjustments in this critical area.

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. 3171

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Training Improvement Act of 1992".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

SEC. 3. TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.

Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking paragraph (2) and inserting the following: "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end thereof the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including specific goals and objectives for program improvement and professional development, a process for continuing input from the Head Start community, and a strategy for delivering training and technical assistance; and

"(2) report on such approach to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".•

By Mr. ROCKEFELLER:

S. 3172. A bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 of the General Agreement on Tariffs and trade, and for other purposes; to the Committee on Finance.

INTELLECTUAL PROPERTY PROTECTION ACT OF 1992

• Mr. ROCKEFELLER. Mr. President, several times over the past few years I have stated—here on the Senate floor, in my Foreign Commerce and Tourism Subcommittee, as well as in other public speeches and private meetings—my conviction that the protection of intellectual property is one of the most important trade issues facing U.S. businesses around the world at the present time. Intellectual property is the technology that determines our national income, our social well-being, and our international competitiveness. When the intellectual property of Americans is not protected, our country loses not only jobs, production, and profits today, but also our ability to undertake the research and the investments that lead to further technological progress tomorrow.

The legislation I am introducing, the Intellectual Property Protection Act of 1992, addresses these critical issues. I hope that this proposal will get very serious consideration and early approval. When it is approved, this legislation will help ensure that foreign companies cannot steal U.S. technology and then use that stolen property to compete against the rightful owners. With this protection against intellectual property rights infringement, U.S. competitiveness and U.S. jobs can be preserved.

Mr. President, as you well know, Americans are an invective, creative people. We have long held to the principle that inventors and authors have the right to meaningful protection for

their inventions or literary creations and that others should not be allowed to steal them. Machines, processes, music scores, trademarks, movies, computer chips and software must all be protected against illegal copying.

Section 337 of the Tariff Act of 1930 gives the U.S. International Trade Commission authority to exclude imports that violate U.S. copyright, patent, trademark, and computer chip mask work registrations or that injure U.S. industry by unfair methods of competition. It is one of the most important laws available to U.S. businesses to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices.

On November 23, 1988, a GATT panel found section 337 to be in violation of U.S. obligations under the GATT because some procedures established by section 337 do not provide national treatment for imported goods, and because some aspects of these procedures were not necessary for effective enforcement of a GATT-consistent law. In that decision, national treatment was the GATT test; "necessary for enforcement of an otherwise GATT-consistent provision" was the permitted exception.

On November 7, 1989, the U.S. Government allowed adoption of the GATT Panel Report and thus assumed a commitment to reform section 337 to comply with our GATT obligations. The U.S. trade representative has not yet proposed a reform of section 337 in order to meet this commitment. It had hoped to introduce such a proposal as part of the Uruguay round implementing legislation. Well, the Uruguay round negotiations have dragged on for 7 years now, and there is still no end in sight. Other nations, however, will not let us wait forever to fix the problems of section 337. I believe we should act now to remove any uncertainty about the continued effectiveness of this important law. As a result of the current uncertainty, use of section 337 has begun to decline.

The problem, in summary, faced by the United States as we try to meet our GATT obligations while at the same time maintaining an effective enforcement process against illegal imports, is that the Federal district courts cannot provide efficient adjudication of import issues because each district court normally exercises jurisdiction only over persons found within the district. Because of the need in import cases to exercise far-flung jurisdiction—often in several countries and in several States—that is not customary in district court proceedings, section 337 was written 70 years ago to give the ITC the necessary authority: in rem jurisdiction for the entire country.

In rem jurisdiction is authority over a thing, the imports, rather than over a person. Because of the difficulty of enforcing intellectual property rights against imports which are manufactured outside the normal jurisdiction of U.S. courts, these special enforcement procedures are necessary to enforce intellectual property rights against infringing imports. The GATT allows such special enforcement procedures when they are no less favorable than those used against domestic products or, if less favorable, are necessary to secure compliance with GATT-consistent regulations or procedures. Some parts of section 337 did not meet this test.

The GATT panel did recognize as necessary the ITC's in rem jurisdiction and the automatic enforcement of its orders against illegal imports by the U.S. Customs Service. The special enforcement procedures of section 337—those that are different from the process in district courts—judged not necessary by the GATT were:

First, the statutory time limits in the ITC process. There are no time limits imposed by statutes on the courts nor, given the independence of our judiciary, can we in the Congress impose any such time limits;

Second, the prohibition of counterclaims in the ITC process. Counterclaims are allowed by the courts in intellectual property cases;

Third, the availability of a choice of fora to challenge imports with only a single forum available to challenge alleged domestic infringement. Under current law, only a U.S. industry can bring a section 337 complaint to the ITC;

Fourth, possible duplicative proceedings in the ITC and a district court. A respondent in a section 337 case may have to defend in two fora, often at the same time, whereas a domestic respondent has only a court case to answer.

The bill I am introducing today addresses each of these issues while maintaining the ITC's ability to act quickly and effectively against violations of U.S. intellectual property rights. In preparing this bill, I have consulted extensively with representatives of U.S. industry and with the lawyers who specialize in intellectual property protection issues. I would characterize their views broadly as being at three different points along the continuum.

First, there are a few who think we can best maintain an effective section 337 procedure by thumbing our nose at the GATT and doing nothing to change the current law. Mr. President, I reject that approach. We expect other countries to abide by their GATT obligations, and they should be able to expect the same of the United States. We cannot flaunt international trade rules and expect other nations to obey them.

The second approach is called by some the minimalist approach. That means we should make only minimal changes in section 337—only those changes necessary to comply with our GATT obligations—while preserving the ITC's ability to act quickly and effectively against violations of U.S. intellectual property rights and other unfair trade practices.

Mr. President, this is the approach I believe we should adopt. It is the approach incorporated into this bill. It has very broad support in the U.S. business and legal communities.

A third approach is advocated by those who think that the only way to comply with the GATT panel is to put the import cases in the district courts with the domestic cases. Under this concept, all complaints would have to be initiated in district courts, which—because the courts will not have jurisdiction over the imports or the foreign companies that produce them—could send parts of the complaints to the ITC, but only for provisional relief and only in restricted cases. The determinations of the ITC commissioners would then be subject to review by a district court judge, who could tell the ITC what to do about any final relief orders.

Mr. President, I reject such an approach. It would strip the ITC of most of its current authority and would deprive U.S. businesses an effective enforcement mechanism against imports.

Mr. President, I would like to share with the Senate some of the comments on my bill that I received last week from Thomas V. Heyman, the President of the ITC Trial Lawyers Association. Mr. Heyman, on behalf of the group he heads, wrote,

> For the following reasons, we believe your approach will well serve the interests of the United States while meeting this country's GATT's obligations to our trading partners. . . . While the United States must react to the GATT decision, it should not overreact. It should not change its patent enforcement system. It should not change the focus of Section 337 from an import relief statute to an alternative form of preliminary injunctive relief in connection with imported goods. It should not sacrifice the ability to obtain expeditious relief in the vast majority of cases. It should not trade the flexibility of administrative proceedings for the rigidity of district court rules. What it should do is what your bill proposes—the minimum necessary to preserve the advantages of Section 337 while meeting U.S. international obligations.

Mr. Heyman goes on to examine the specific provisions of the bill in some detail and then writes,

> In conclusion, our Association believes that your proposed legislation will serve to solve the long-standing GATT issue regarding Section 337 in a manner that will not only be supported by U.S. industry, but will bring this country into compliance with its international obligations.

Mr. President, I ask unanimous consent that the full text of the ITC Trial Lawyers Association's letter be printed at the conclusion of my remarks. I also expect to receive similar assessments

from other representative industry and legal groups in the near future, which I will also share with Senators.

Section 337 is an important law, one of the most effective available to U.S. businesses to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices. But section 337 has a real problem that needs to be fixed. It has been found to be in violation of our international obligations under the GATT and it should be brought into line.

This is not merely an academic exercise. The use of the ITC's section 337 process has fallen significantly since the USTR allowed the GATT panel to be adopted. I have been told by U.S. businesses that the drop in such cases is not due to greater respect by foreign companies for U.S. intellectual property rights. Rather it is because some potential U.S. complainants fear that any determination they obtained in the ITC could be invalid because the U.S. Government has accepted the GATT ruling against the current procedures, or that an investigation could be stopped part way through, after a great deal of time and money had been spent, when the rules change.

We should not let that situation continue. The protection of the intellectual property rights of U.S. businesses—their copyright, patent, trademark, and computer chip mask work registrations—is too important. With the enactment of the bill I am introducing today, we can maintain and reinforce the authority section 337 of the Tariff Act of 1930 gives the U.S. International Trade Commission to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices. I urge the Senate to take expeditious action on this proposal.

Mr. President, I ask unanimous consent that the full text of the bill and the letter referred to earlier be printed in the RECORD.

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

ITC TRIAL LAWYERS ASSOCIATION,
July 29, 1992.

Re Section 337.

Senator JOHN D. (JAY) ROCKEFELLER IV,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: Thank you for sharing with our organization your draft legislation for amending Section 337 (19 U.S.C. §1337). For the following reasons, we believe your approach will well serve the interests of the United States while meeting this country's GATT obligations to our trading partners.

Since the 1974 amendments, in over 330 investigations, Section 337 has proven to be an effective tool for enforcing U.S. intellectual property rights—many times against multiple offenders—in connection with unfair imports into the United States. Over that period, the four most advantageous aspects of these administrative proceedings have been the ability to reach multiple parties in one forum, efficient foreign discovery, expeditious resolution and border enforcement by the U.S. Customs Service. While the GATT ruling in the *Aramid Fibers* case found fault with Section 337 in four respects, the only one of the foregoing advantages of the statute that might be affected by your proposed legislation in expedition, and it is by no means certain that this element has to be sacrificed.

While the United States must react to the GATT decision, it should not overreact. It should not change its patent enforcement system. It should not change the focus of Section 337 from an import relief statute to an alternative form of preliminary injunctive relief in connection with imported goods. It should not sacrifice the ability to obtain expeditious relief in the vast majority of cases. It should not trade the flexibility of administrative proceedings for the rigidity of district court rules. What it should do is what your bill proposes—the minimum necessary to preserve the advantages of Section 337 while meeting U.S. international obligations.

Your bill would retain the principal advantages of Section 337 administrative actions while preserving the possibility of preliminary injunctive relief for those cases where such an extraordinary remedy is warranted. Most Section 337 cases, in the future as in the past, will not be driven by the need to obtain temporary exclusion orders. They will remain cases which are brought to the ITC because they involve one or more of the following elements: multiple offenders, a need to obtain effective discovery here and abroad, the desire to obtain relief faster than that which is available from most district courts and the benefit of U.S. Customs Service enforcement of limited or general exclusion orders. Temporary or preliminary relief, along with these advantages, will, nonetheless, continue to be available to those complainants who can pass the same test in the ITC that they would have to meet to obtain a district court preliminary injunction. Alternatively, failing to obtain temporary relief at the ITC, some parties may simply choose to terminate their Section 337 action and pursue their remedies in district court.

Since expedition is the key to Section 337, that is the one element that cannot be sacrificed, as it would be if, for instance, the statute were relegated to the district courts. Under the separation of powers doctrine, neither Congress nor the President would be in a position to dictate to the district courts that import-related patent cases be handled expeditiously, nor should they, when one considers the many competing interest that vie for scheduling advantage in the federal court system. The only hope for maintaining prompt relief in import-related patent cases is to keep Section 337 enforcement exclusively at the ITC where, because of continued Congressional oversight, pressure can be applied if that agency fails to do its job properly. Moreover, unlike the district courts, the ITC, because of its responsibilities in the fields of antidumping and countervailing duties, is very sensitive to the need to protect domestic parties against unfair foreign competition. It does not take too great an act of faith to believe that an agency that is in the vanguard of protecting this country's natural advantages would recognize the need to provide expeditious relief for the protection of intellectual property rights against foreign infringers.

Turning to your bill's proposal to create a new declaratory judgment action before the ITC, the very limited opportunity for the nature of this right is apparent. First of all, the right to bring such an action would not arise unless two conditions are met—there must be a specific threat made of an action to bar importation, and the rights holder must meet the test of a "domesitc industry" for the ITC to have jurisdiction to adjudicate the parties' rights. In other words, not every threatened infringement action would give rise to an ITC adjudication, nor could a U.S. patent holder who is engaged in no domestic activity have his patent challenged before the ITC. Finally, because *res judicata* does not apply, the adjudication of the patent by the ITC will only be for purposes of Section 337, thus giving the threatened party little incentive to choose the ITC over the district court as the forum in which to initiate its action if it is seeking a dispositive determination of patent rights.

As we read your proposal, it would allow respondents to raise directly related counterclaims, not to obtain affirmative relief, but rather to bar the imposition of relief under Section 337. It would appear that, since Section 337 is a trade, not patent statute, a respondent need only be given the opportunity to prevent the imposition of border relief. In fact, the *Aramid Fibers* case involved a refusal by the ITC to allow respondent to raise as a counterclaim its own process patent in the same field in which it was accused. Had both parties' claims been successful, under your proposal revision to the statute, the ITC would simply have been empowered to deny trade relief to complainant, thus properly relegating the dispute to the district court as a mutual patent infringement action. The narrow ability to raise directly related counterclaims is likely to be of limited value to respondents seeking to thwart relief, since the facts of the *Aramid Fibers* situation were the exception, not the rule.

The most troubling aspect of the GATT ruling is the dual forum issue. That question can never be fully solved as long as both a trade remedy and an infringement action lie against imported goods. However, your legislation deals with the underlying inequities raised by the dual forum issue, namely, the expense and inconvenience of two proceedings, whether simultaneous or seriatim. While your proposal eliminates simultaneous proceedings against respondents, it also deals with the cost of multiple actions by preserving as much of the ITC record as possible for use by the parties in district court.

In conclusion, our Association believes that your proposed legislation will serve to solve the long-standing GATT issue regarding Section 337 in a manner that will not only be supported by U.S. industry, but will bring this country into compliance with its international obligations. We would be pleased to provide additional information if that would be of assistance.

Sincerely,

THOMAS V. HEYMAN,
President.

S. 3172

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intellectual Property Protection Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is one of the most important laws available to United States businesses to deal with unfair practices in import trade

and to enforce intellectual property rights against infringing imports.

(2) On November 23, 1988, a panel of the General Agreement on Tariffs and Trade (hereafter in this Act referred to as "GATT") found section 337 to be in violation of United States obligations under the GATT, because certain procedures under section 337 did not provide national treatment for imported goods and because some aspects of the procedures were unnecessary for effective compliance with United States patent law.

(3) On November 7, 1989, the United States allowed adoption of the GATT panel report on section 337, thereby assuming an obligation to reform section 337 to comply with its obligations under the GATT.

(4) Because of the special difficulties in enforcing intellectual property rights against unfairly traded imports, special enforcement procedures that apply only to imports are necessary to effectively enforce intellectual property rights against infringing imports.

(5) The GATT allows special enforcement procedures when such procedures are not less favorable than the procedures used against domestic products or such procedures are necessary to secure compliance with copyright, patent, trademark, and mask work registration protection laws or regulations.

(6) To be effective, such enforcement procedures must establish administrative proceedings which can reach multiple parties in one forum, allow efficient foreign discovery, provide expeditious dispute resolution, and provide border enforcement by the United States Customs Service.

(b) PURPOSE.—The purpose of this Act is to conform section 337 of the Tariff Act of 1930 and title 28 of the United States Code to the provisions of the GATT to ensure that section 337 procedures can reach multiple parties in one forum, allow efficient foreign discovery, provide expeditious dispute resolution even in the absence of a deadline for final determinations, and provide border enforcement of determinations.

SEC. 3. AMENDMENT OF SECTION 337 OF THE TARIFF ACT OF 1930.

(a) INVESTIGATION.—Section 337(b) of the Tariff Act of 1930 (19 U.S.C. 1337(b)) is amended—

(1) by striking "; TIME LIMITS" in the heading;

(2) in paragraph (1), by striking "The Commission shall conclude any such investigation" and all that follows through the end period and inserting the following: "The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall establish, in consultation with the parties, a target date for its final determination."; and

(3) by striking the fifth sentence in paragraph (3).

(b) DETERMINATION; REVIEW.—Section 337(c) of such Act is amended—

(1) by striking "a settlement agreement" in the first sentence and inserting "an agreement between the parties";

(2) by striking "subsection (d) or (e)" in the second sentence and inserting "subsection (d), (e), or (f) (and each declaration under subsection (o))"; and

(3) by striking "(f), or (g)" in the fourth sentence and inserting "(f), (g), or (o)".

(c) EXCLUSION OF ARTICLES FROM ENTRY.—Section 337(d) of such Act is amended by inserting after the first sentence the following new sentence: "No article shall be excluded from entry where the Commission determines that the owner, importer, or consignee of the articles has established a sufficient counterclaim directly related to the unfair methods or acts determined by the Commission to exist.".

(d) ENTRY UNDER BOND.—Section 337(e) of such Act is amended—

(1) in the last sentence of paragraph (1), by striking "determined by the Commission" and all that follows through the end period and inserting: "prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.";

(2) by adding at the end of paragraph (2), the following new sentence: "If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent."; and

(3) by adding at the end thereof the following new paragraph:

"(4) The Commission may prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).".

(e) CEASE AND DESIST ORDERS.—Section 337(f)(1) of such Act is amended—

(1) by inserting after the first sentence the following new sentence: "A cease and desist order shall not be issued if the Commission determines that the owner, importer, or consignee of the articles has established a sufficient counterclaim directly related to the unfair methods or acts determined by the Commission to exist."; and

(2) by adding at the end thereof the following: "If a temporary cease and desist order is issued in addition to, or, in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission may prescribe the terms and conditions under which bonds may be forfeited under this paragraph.".

(f) DECLARATORY RELIEF.—Section 337 of such Act is amended by adding at the end thereof the following new subsection:

"(o) COMPLAINT FOR DECLARATORY RELIEF BY OWNER, IMPORTER, OR CONSIGNEE.—In a case of actual controversy as to the existence of unfair methods of competition and unfair acts described in subsection (a), upon the filing of a complaint for declaratory relief under oath by the owner, importer, or consignee of an imported article (or part thereof), the Commission may declare the rights and other legal relations of the parties, whether or not further relief is or could be sought. A declaration made under this subsection shall have the force and effect of a final determination of the Commission and shall be reviewable as such. In the case of unfair acts involving the validity of patents as described in subsection (a)(1)(B), such a declaration shall be only for the purpose of determining whether there is a violation of this section and shall not have the effect of claim or issue preclusion.".

SEC. 4. AMENDMENT OF TITLE 28, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission

"(a) STAY.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), at the request of a party that is a respondent in the proceeding before the Commission (other than a respondent to a counterclaim in a proceeding for declaratory relief), a district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.

"(b) USE OF COMMISSION RECORD.—After dissolution of a stay under subsection (a), portions of the record of the proceeding before the United States International Trade Commission that bear on issues in a civil action shall be admissible in the civil action to the extent permitted under the Federal Rules of Evidence and the Federal Rules of Civil Procedure.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Stay of actions pending disposition of proceedings before the United States International Trade Commission.".●

By Mr. SPECTER:

S. 3173. A bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to provide that GS-083 Federal police officers be treated in the same manner as other Federal law enforcement officers for purposes of that Act; to the Committee on Governmental Affairs.

PAY REFORM FOR FEDERAL POLICE OFFICERS ACT

● Mr. SPECTER. Mr. President, today I am introducing legislation to overturn an unwarranted decision by the Office of Personnel Management to restrict the applicability of the Federal Law Enforcement Pay Reform Act of 1990. We enacted this law to provide badly needed pay increases to Federal law enforcement officials in order to retain those on the various forces and make it easier to recruit the best candidates.

Once the law was enacted, however, the Office of Personnel Management determined that its provisions did not apply to Federal officials who perform police duties such as maintaining law and order, protecting Federal property, and guarding against violations of the law. Rather, the law was held to apply only to agencies like the Federal Bureau of Investigation and the Drug Enforcement Administration. The differentiation made by the Office of Personnel Management makes no sense. Some of those who have been excluded from the benefits of the 1990 act perform actual police work.

This problem has been brought to my attention by Michael Petrecz and John Shaw of the Fraternal Order of Police,

which represents the Federal police officers at the Philadelphia Navy Yard. The GS-083 series officers in the union perform the full range of police duties. Yet, in the judgment of the Office of Personnel Management they are not entitled to the benefits of the 1990 Pay Act. This makes no sense to me, as the rationale behind that act applies with equal force to all Federal officers with law enforcement responsibilities.

I urge my colleagues to join me in cosponsoring this bill, designed to bring justice and equity for Federal police officers and to rectify the bad judgment exercised by the Office of Personnel Management.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 3173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402 of the Federal Law Enforcement Pay Reform Act of 1990, as contained in the Treasury, Postal Service and General Government Appropriations Act of 1991 (Public Law 101-509; 104 Stat. 1465) is amended by striking "apply." and inserting in lieu thereof "apply, and includes a Federal police officer (GS-083).".●

ADDITIONAL COSPONSORS

S. 1170

At the request of Mr. DURENBERGER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1170, a bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision.

S. 1675

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1675, a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the medicare program, and for other purposes.

S. 2134

At the request of Mr. NUNN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2540

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2540, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of individual medical savings accounts to assist in the payment of medical and long-term care expenses and other qualified expenses, to provide that the earnings on such accounts will not be taxable, and for other purposes.

S. 2553

At the request of Mr. INOUYE, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under the Act, and for other purposes.

S. 2632

At the request of Ms. MIKULSKI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2632, a bill to establish the National Environmental Technologies Agency.

S. 2914

At the request of Mr. DURENBERGER, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2941

At the request of Mr. RUDMAN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the names of the Senator from Nevada [Mr. REID], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3108

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 3108, a bill to amend title 38, United States Code, with respect to housing loans for veterans.

SENATE CONCURRENT RESOLUTION 110

At the request of Mr. SYMMS, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Concurrent Resolution 110, a concurrent resolution to authorize the construction of a monument on the United States Capitol Grounds to honor Thomas Paine.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. DECONCINI, the names of the Senator from Washington [Mr. GORTON], the Senator from Alabama [Mr. SHELBY], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, Georgia.

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Kentucky [Mr. FORD], the Senator from North Dakota [Mr. CONRAD], the Senator from Missouri [Mr. DANFORTH], the Senator from Connecticut [Mr. DODD], the Senator from North Dakota [Mr. BURDICK], the Senator from Nevada [Mr. REID], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. DIXON], the Senator from South Dakota [Mr. PRESSLER], the Senator from Idaho [Mr. CRAIG], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. D'AMATO], the Senator from Florida [Mr. MACK], the Senator from New York [Mr. MOYNIHAN], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Concurrent Resolution 134, a resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

SENATE CONCURRENT RESOLUTION 135—RELATING TO THE ADJOURNMENT OF THE CONGRESS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Wednesday, August 12, 1992 pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until 12:00 noon, or until such times as may be specified by the Majority Leader, or his designee, in the motion to adjourn or recess, on Tuesday, September 8, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first; and that when the House of Representatives adjourns at the close of business on the legislative day of Wednesday, August 12, 1992, pursuant to a motion made by the Majority Leader, or his designee in accordance with this resolution, it stand adjourned until 12:00 noon on Wednesday, September 9, 1992, or until 12:00 noon on the second day after Members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

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

SENATE RESOLUTION 333—RELATING TO THE AUTHORIZATION OF CERTAIN TRAVEL EXPENSES

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 333

Resolved,

SECTION 1. TRAVEL EXPENSES.

The appropriations account "Miscellaneous Items", in the contingent fund of the Senate, is available for the payment of offical travel expenses, authorized by the President pro tempore, Majority Leader or Minority Leader of the Senate, incurred by the Chaplain of the Senate, upon vouchers approved by the President pro tempore, Majority Leader, or Minority Leader.

SEC. 2. ADVANCEMENTS.

The Secretary of the Senate is authorized to advance funds under the authority of this resolution for travel expenses under section 1 in the same maner provided for committees of the Senate.

SENATE RESOLUTION 334—RELATING TO THE AUTHORIZATION OF SENATE EMPLOYEE TESTIMONY AND RELEASE OF DOCUMENTS BY A SENATE COMMITTEE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 334

Whereas, in the cases of *United States* v. *Dean*, Cr. No. 92—0181, and *United States* v. *Demery and McCafferty*, Cr. No. 92-0227, Independent Counsel Arlin M. Adams has requested the testimony of Lory Breneman, a Senate employee on the staff of the Committee on Banking, Housing, and Urban Affairs, and documents within the control of the Committee on Banking, Housing, and Urban Affairs;

Whereas, the Independent Counsel also has requested certain documents within the custody and control of the Committee on Banking, Housing, and Urban Affairs to assist his office in its investigation of other matters relating to the Department of Housing and Urban Development;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §288b(a) and 288c(a)(2)(1988), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs, acting jointly, are authorized to provide to the Independent Counsel documents in the custody and control of the Committee, except those for which a privilege should be asserted.

SEC. 2. That Lory Breneman is authorized to testify in the case of *United States* v. *Dean*, Cr. No. 92-0181 (D.DC.), except concerning matters for which a privilege should be asserted.

SEC. 3. That the Senate Legal Counsel is directed to represent Lory Breneman in connection with the testimony authorized under section 2.

AMENDMENTS SUBMITTED

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

WARNER AMENDMENT NO. 2930

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the resolution (S. Res. 330) relating to authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter, as follows:

In the resolving clause, strike out paragraphs (1) and (2) and insert in lieu thereof the following:

"(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular attention to the possibility of "demonstrations" of force, to give effect to Security Council decisions to facilitate the provision of humanitarian relief in Bosnia-Hercegovina;

"(2) during such meeting, the Security Council should—

"(a) demand, and develop a plan to ensure, access for United Nations and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

"(b) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision;

"(c) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all states in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

"(d) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes.".

TAX ENTERPRISE ZONES ACT

METZENBAUM (AND RUDMAN) AMENDMENT NO. 2931

Mr. METZENBAUM (for himself and Mr. RUDMAN) proposed an amendment to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

On page 875, beginning with line 13, strike through page 876, line 9, and insert:

Subpart A—IRA Deduction

SEC. 2001. INCREASE IN INCOME LIMITATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 219(g)(3) is amended—

(1) by striking "$40,000" in clause (i) and inserting "$100,000", and

(2) by striking "$25,000" and inserting "$75,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

On page 884, strike lines 5 through 9, and insert:

"(e) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3).

"(2) LIMITATION.—A transfer otherwise described in paragraph (1) shall not be treated as a qualified transfer if the taxpayer's adjusted gross income for the taxable year of the transfer exceeds the applicable dollar amount.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'adjusted gross income' and 'applicable dollar amount' have the meanings given such terms by section

219(g)(3), except subparagraph (A)(ii) thereof shall be applied without regard to the phrase 'or the deduction allowable under this section'."

SIMON AMENDMENT NO. 2932

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following new section.

SEC. . SENSE OF THE SENATE REGARDING DEDUCTIBILITY OF DIVIDENDS.

It is the sense of the Senate that the Committee on Finance of the Senate shall, as soon as practicable, hold hearings and study legislation which allows for the partial deduction of dividends paid by corporations, including legislation to pay for any revenue loss, such as reducing the deductibility of interest.

• Mr. SIMON. Mr. President, today, I am introducing legislation I plan to offer as an amendment to H.R. 11, the Revenue Act of 1992. The amendment expresses the sense of the Senate that the Finance Committee should take early action on proposals relating to the deductibility of corporate dividends.•

CHAFEE AMENDMENT NO. 2933

Mr. CHAFEE proposed an amendment to the bill H.R. 11, supra, as follows:

On page 875, beginning with line 13, strike all through page 885, line 16, and insert:

PART I—IRA DEDUCTION

SEC. 202. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the exess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

On page 893, line 7, strike "2011(b)" and insert "2021(c)".

On page 893, line 9, strike "(9)" and insert "(8)".

On page 893, lines 13 and 14, strike "(other than a special individual retirement account)".

On page 894, strike lines 19 through 21.

PACKWOOD AMENDMENT NO. 2934

Mr. DOLE (for Mr. PACKWOOD) proposed an amendment to amendment No. 2931 proposed by Mr. METZENBAUM (and Mr. RUDMAN) to the bill H.R. 11, supra, as follows:

At the end of the amendment add the following:

SEC. 2001A. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—In the case of a first-time homebuyer, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 10 percent of the purchase price of the first principal residence purchased by the taxpayer during the eligibility period. Except as otherwise provided in this section, such credit shall be allowed for the taxable year in which such residence is purchased.

"(b) LIMITATIONS.—

"(1) MAXIMUM OVERALL CREDIT.—The credit allowed by subsection (a) to the taxpayer shall not exceed $2,500.

"(2) MAXIMUM FIRST YEAR CREDIT.—Of the aggregate credit allowable under subsection (a) after the application of paragraph (1)—

"(A) not more than 50 percent shall be allowed for the taxable year in which the residence is purchased, and

"(B) the remaining credit shall be allowable for the succeeding taxable year.

"(c) FIRST-TIME HOMEBUYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'first-time homebuyer' means any individual unless such individual or such individual's spouse had a present ownership interest in any principal residence at any time during the 3-year period ending on the date of the purchase of the residence referred to in subsection (a).

"(2) UNMARRIED JOINT OWNERS.—An individual shall not be treated as a first-time homebuyer with respect to any residence unless all the individuals purchasing such residence with such individual are first-time homebuyers.

"(3) ALLOCATION OF LIMITS.—All individuals purchasing a residence shall be treated as 1 individual for purposes of determining the maximum credit under subsection (a), and such maximum credit shall be allocated among such individuals under regulations prescribed by the Secretary.

"(4) CERTAIN INDIVIDUALS INELIGIBLE.—The term 'first-time homebuyer' shall not include any individual if, on the date of the purchase of the residence, the period of time specified in section 1034(a) is suspended under subsection (a)(6), (h), or (k) of section 1034 with respect to such individual.

"(5) SPECIAL RULE FOR CERTAIN CONTRACTS OF DEED.—In the case of an individual described in section 143(i)(1)(C) for any year, an ownership interest shall not include a contract of deed described in such section.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) ELIGIBILITY PERIOD.—

"(A) IN GENERAL.—The term 'eligibility period' means the period beginning after July 27, 1992, and ending before January 1, 1993.

"(B) BINDING CONTRACTS.—A residence shall be treated as purchased during the eligibility period if—

"(i) during the eligibility period, the purchaser enters into a binding contract to purchase the residence, and

"(ii) the purchaser purchases and occupies the residence before April 1, 1993.

For purposes of clause (i), a contract shall not fail to be treated as binding merely because it is contingent on financing or on the condition of the residence.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the residence on the date of its acquisition.

"(e) CARRYOVER OF UNUSED CREDIT.—

"(1) IN GENERAL.—If—

"(A) the credit allowable under subsection (a) exceeds

"(B) the limitation imposed by section 26(a) reduced by the sum of the credits allowable under sections 21 and 22,

such excess shall be carried to the succeeding taxable year and shall be allowable under subsection (a) for such succeeding taxable year.

"(2) 5-YEAR LIMIT ON CARRYFORWARD.— No amount may be carried under paragraph (1) to any taxable year after the 5th taxable year after the taxable year in which the residence is purchased.

"(f) RECAPTURE OF CREDIT FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under under subsection (a) and such disposition occurs at any time with 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (were such residence the first residence purchased during the eligibility peroid) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—Paragraph (1) shall not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period referred to in paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence."

"(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time home buyer."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after July 28, 1992.

SEC. 2001B. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

"(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after July 1, 1992.

REHABILITATION ACT AMENDMENTS

HARKIN AMENDMENT NO. 2935

Mr. MITCHELL (for Mr. HARKIN) proposed an amendment to the bill (S. 3065) to revise and extend the Rehabilitation Act of 1973, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rehabilitation Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Allotment percentage.
Sec. 104. Nonduplication.
Sec. 105. Reports.
Sec. 106. Review of applications.
Sec. 107. Carryover.
Sec. 108. Client assistance information.

Subtitle B—Vocational Rehabilitation Services

Sec. 111. Policy; authorization of appropriations.
Sec. 112. State plans.
Sec. 113. Determinations of eligibility and individualized written rehabilitation program.
Sec. 114. Scope of vocational rehabilitation services.
Sec. 115. Non-Federal share for construction.
Sec. 116. State Rehabilitation Advisory Council.
Sec. 117. Evaluation.
Sec. 118. Monitoring and review.
Sec. 119. Reallotment.
Sec. 120. Payments to States.
Sec. 121. Client assistance program.
Sec. 122. Innovation and expansion grants.
Sec. 123. Study of needs of American Indians with handicaps.
Sec. 124. Review of data collection system.
Sec. 125. Exchange of data.
Sec. 126. Issuance of regulations.
Sec. 127. Social Security reimbursement payments.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.
Sec. 302. Training.
Sec. 303. Community rehabilitation programs for individuals with disabilities.
Sec. 304. Loan guarantees for community rehabilitation programs.
Sec. 305. Comprehensive rehabilitation centers.
Sec. 306. General grant and contract requirements.
Sec. 307. Authorization of appropriations for special projects and supplementary services.
Sec. 308. Special demonstration programs.
Sec. 309. Migratory workers.
Sec. 310. Special recreational programs.
Sec. 311. Independent living services for older individuals who are blind.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of members.
Sec. 404. Compensation of staff.
Sec. 405. Authorization of appropriations.

TITLE V—ACCESS

Sec. 501. Access.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.
Sec. 605. Projects With Industry.
Sec. 606. Authorization of appropriations.
Sec. 607. Supported employment.

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

Sec. 701. Centers and services.

TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

Sec. 801. Projects.

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 901. Congressional findings.
Sec. 902. Continued operation of Center.
Sec. 903. Audit, monitoring, and evaluation.
Sec. 904. Authorization of appropriations.
Sec. 905. Definitions.
Sec. 906. Construction of Act, effect on agreements.
Sec. 907. Establishment of a program.
Sec. 908. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 911. Committee for Purchase from People Who Are Blind or Severely Disabled.
Sec. 912. Individuals With Disabilities Education Act.
Sec. 913. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 914. President's Committee on Employment of People With Disabilities.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be

made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

SEC. 101. FINDINGS AND PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"SEC. 2. FINDINGS; PURPOSE; POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(4) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purpose of this Act is to empower individuals with disabilities to achieve economic self-sufficiency, independence, and inclusion and integration into the society, through—

"(1) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(2) independent living centers and services;

"(3) research;

"(4) training;

"(5) demonstration projects; and

"(6) the guarantee of equal opportunity.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, family member, guardian, advocate, or authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

"(B)".

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "facilities)" and inserting "facilities for community rehabilitation programs)".

(c) DRUG.—Section 7 is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraph (22) as paragraph (5); and

(3) by inserting paragraph (5) (as so redesignated by paragraph (2) of this subsection) after paragraph (4).

(d) EMPLOYMENT OUTCOME.—Section 7(6) is amended to read as follows:

"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".

(e) FEDERAL SHARE.—Section 7(7) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, III, and VI";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), and (E)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles II, IV, and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after section (10) the following:

"(11) The term 'personal assistance services' means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the

family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) is amended to read as follows:

"(16) The term 'State' includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for those individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (as amended by subsection (c)(2)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B)(i) to the extent additional data is necessary, a comprehensive assessment of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment may include—

"(I) to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(II) an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(ii) the administration of the assessment described in clause (i);

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' means an item, a piece of equipment, or a product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(24) The term 'assistive technology service'—

"(A) means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device; and

"(B) includes—

"(i) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the customary environment of the individual;

"(ii) purchasing, leasing, or otherwise providing for the acquisition by individuals with disabilities of assistive technology devices;

"(iii) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(iv) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with existing education and rehabilitation plans and programs;

"(v) training or technical assistance for an individual with disabilities, or, if appropriate, the family of an individual with disabilities; and

"(vi) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, individuals with disabilities.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, IV, and V, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)));

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services for individuals with cognitive and sensory disabilities, including life skills training, interpreter and reader services;

"(vi) personal assistance services, including the training of personnel providing such services;

"(vii) supported living;

"(viii) transportation;

"(ix) physical rehabilitation;

"(x) therapeutic treatment;

"(xi) prostheses and other appliances and devices;

"(xii) health maintenance;

"(xiii) individual and group social and recreational services;

"(xiv) services for children;

"(xv) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future; and

"(xvi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, family members, guardians, or legal representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(33) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(34) The term 'transition services' means a coordinated set of activities for a student that—

"(A) are designed within an outcome-oriented process that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated competitive employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

"(B) are based on the needs of the individual student, taking into account the preferences and interests of the student; and

"(C) include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.".

(o) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES";

(D) by striking the item relating to the part heading for part B of title VI and inserting the following:

"PART B—PROJECTS WITH INDUSTRY AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

and

(E) by striking the item relating to section 622 and inserting the following:

"Sec. 622. Business opportunities for individuals with disabilities.".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place the term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind"; and

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), (15), and (21), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in paragraph (4)—

(I) in subparagraph (A), by striking "handicap" each place such term appears and inserting "impediment"; and

(II) in subparagraph (E), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with"; and

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place the term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A) of this paragraph, by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(ii) in paragraph (1), by striking "blind or deaf individuals" and inserting "individuals who are blind or individuals who are deaf";

(B) in subsection (c)(1) by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)(1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5) and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place the term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4) by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a) by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b) by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (b), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (b), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a) by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Section 508 (29 U.S.C. 794d) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "handicaps" and inserting "disabilities"; and

(ii) in paragraph (3), by striking "Handicapped Employees" and inserting "Employees with Disabilities"; and

(B) in subsection (c), by striking "with handicaps" and inserting "with a disability".

(34) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(35) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(36) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(37) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(38) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(39) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(40) Part B of title VI is amended in the part heading by striking "HANDICAPS" and inserting "DISABILITIES".

(41) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)".

SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

SEC. 105. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

SEC. 106. REVIEW OF APPLICATIONS.

(a) TRANSFERS.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) COMPENSATION.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 107. CARRYOVER.

(a) IN GENERAL.—The Act is amended by adding after section 18 (29 U.S.C. 717) the following new section:

"SEC. 19. CARRYOVER.

"Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, part C of title VI, or part B, C, or D of title VII that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

SEC. 108. CLIENT ASSISTANCE INFORMATION.

(a) IN GENERAL.—The Act is amended by adding after section 19 (as added by section 107(a)) the following new section:

"SEC. 20. CLIENT ASSISTANCE INFORMATION.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals or their parents, guardians, or legal representatives of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 107(b)) the following:

"Sec. 20. Client assistance information.".

Subtitle B—Vocational Rehabilitation Services

SEC. 111. POLICY; AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) REAUTHORIZATION.—Section 100 is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B of this title (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997 except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking out "authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Policy.".

SEC. 112. STATE PLANS.

(a) PERIOD.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-

year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) STATE AGENCY.—Section 101(a)(1)(A) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa, and (iv) in the case of each of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association), the appropriate State agency shall be the head of government of the entity".

(c) PLANS; POLICIES; METHODS.—Section 101(a)(5) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,"; and

(2) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) FACILITIES COMPLIANCE.—Section 101(a)(6)(B) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) PERSONNEL.—Section 101(a) is amended by striking paragraph (7) and inserting the following:

"(7)(A) provide for a comprehensive system of personnel development for professionals and paraprofessionals employed by the State agency, which system shall include—

"(i) the development, updating, and implementation of a plan that will address current and projected personnel needs of the State agency and that will coordinate and facilitate efforts to recruit, prepare, and retain qualified personnel; and

"(ii) a description of the procedures and activities the State will undertake to ensure that all personnel needed by the State agency to carry out this part are appropriately and adequately prepared, including—

"(I) training regarding responsibilities established by the Rehabilitation Act Amendments of 1992;

"(II) surveys to determine training needs;

"(III) a system for the continuing education of personnel; and

"(IV) procedures for acquiring and disseminating to personnel significant knowledge derived from research and other sources;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel needed by the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) AVAILABILITY OF COMPARABLE SERVICES.—Section 101(a)(8) is amended by striking "except that" and all that follows and inserting "except that such determinations shall not be required—

"(A) if the determinations would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D), as redesignated by paragraph (1) of this subsection, by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C), as so redesignated, by striking the comma at the end and inserting a semicolon.

(h) INTERAGENCY COOPERATION.—Section 101(a)(11) is amended—

(1) by striking "(11) provide for entering into cooperative agreements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A), as designated by paragraph (1) of this subsection—

(A) by striking "and" after "Individuals with Disabilities Education Act,"; and

(B) by adding after "the Carl D. Perkins Vocational Education Act" the following: ", and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938, (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.); and"; and

(3) by adding at the end the following:

"(B) in providing for interagency cooperation under subparagraph (A), to provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals) among the agencies;

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(i) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(j) CONTINUING STATEWIDE STUDIES.—Section 101(a) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15)(B), as so designated by paragraph (1), by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,".

(k) REVIEW AND EFFORTS.—Section 101(a)(16) is amended to read as follows:

"(16) provide for—

"(A) annual review and reevaluation (including input by the individual with a disability, or by the family of the individual if the individual with a disability requests, desires, or needs assistance) of the status of individuals with disabilities placed in extended employment settings in community rehabilitation programs (including workshops) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) to determine the interests, priorities, and needs of such individuals for their employment, or training for competitive employment, in integrated settings in the labor market; and

"(B) maximum efforts, including the provision of vocational rehabilitation services, designed to promote movement from extended employment to integrated employment (including supported employment);".

(l) CONSTRUCTION.—Section 101(a)(17) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(m) VIEWS CONSIDERED.—Section 101(a)(18) is amended by inserting "the Director of the client assistance program under section 112," after "field of vocational rehabilitation,".

(n) STRATEGIC PLAN.—Section 101(a)(19) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(o) PUBLIC COMMENT.—Section 101(a)(23)(A) is amended by inserting after "comment on the State plan" the following: "before development of the plan by the State".

(p) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) is amended to read as follows:

"(24) contain plans, policies, and methods to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(B)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives and goals and objectives related to independent living before a student leaves a school setting, to the extent such goals and objectives are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services; and

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(3) to an individual, consistent with the individualized written rehabilitation program of the individual; and".

(q) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting a semicolon; and

(3) by adding at the end the following:

"(26) provide for coordination and working relationships with the Statewide Independent Living Council established under section 704 and independent living centers within the State;

"(27) provide satisfactory assurances to the Commissioner that the State has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title;

"(28)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment;

"(29) describe how the State is taking steps to work with disability organizations, business, industry, and labor to expand employment opportunities for individuals with disabilities, including—

"(A) furnishing training and technical assistance with respect to changes made to the Act by the Rehabilitation Act Amendments of 1992; and

"(B)(i) furnishing training and technical assistance with respect to methods for complying with sections 503 and 504 of this Act and with title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); or

"(ii) otherwise ensuring equal opportunity for applicants and employees who are individuals with disabilities (regardless of whether an applicant or employee has applied for or is receiving vocational rehabilitation services under this Act); and

"(30) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the State agency to such advice and recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner;

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings; or

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(r) TECHNICAL AMENDMENT.—Section 101 is amended by striking subsections (c) and (d).

SEC. 113. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A) shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the preliminary assessment described in subparagraph (C)(iii)(II), of section (7)(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual with a disability that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual with a disability agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(ii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the designated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-range rehabilitation goals based on the assessment of rehabilitation needs for the individual;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through an assessment of rehabilitation needs carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service; and

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate objectives and long-term rehabilitation goals for the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, family member, guardian, advocate, or authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, family member, guardian, advocate, or authorized representative."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program.".

(c) TECHNICAL AMENDMENT.—Section 102(c) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of paragraph (22)".

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case, either on a random basis or by agreement between the director of the designated State unit and the individual with a disability, from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (D) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(30); or

"(III) the commissions described in section 101(a)(30)(C)(ii).";

(2) in paragraph (3) by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

SEC. 114. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,"; and

(B) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "such services"; and

(B) by striking ": *Provided*, That" and inserting ", except that";

(4) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(5) by striking "and" at the end of paragraph (11);

(6) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(7) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided to assist an individual in performing work-related functions necessary to obtain and retain competitive work in an integrated work setting and to fulfill the functions of a job while the individual is actively involved in a rehabilitation program that includes the provision of other services authorized under this section; and

"(16) supported employment services.".

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b)(2) is amended by striking "the construction" and all that follows through "rehabilitation facilities)"

and inserting "the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)".

SEC. 115. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

SEC. 116. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(30) to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 704, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, who shall not be employed by the designated State unit, with knowledge of and experience with vocational rehabilitation programs;

"(E) at least one representative of community rehabilitation program providers;

"(F) at least one representative of business and industry;

"(G) at least one representative of labor;

"(H) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(I) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—The Council shall select a chairperson from among the membership of the Council.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit in the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 704, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e)); and

"(6) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and fo-

rums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

SEC. 117. EVALUATION.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by section 116(a), is further amended by adding at the end the following:

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 116(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

SEC. 118. MONITORING AND REVIEW.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by sections 116(a) and 117(a), is further amended by adding at the end the following:

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys;

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits;

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(28) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the pro-

ceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 117(b)) the following:

"Sec. 107. Monitoring and review.".

SEC. 119. REALLOTMENT.

(a) TERRITORIES.—Section 110(a)(3) (29 U.S.C. 730(a)(3)) is amended by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau".

(b) REALLOTMENT.—Section 110(c) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year that will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

SEC. 120. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1), by striking out "(including any additional payment to it under section 110(b))";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking out "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3) The amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such subsection.".

SEC. 121. CLIENT ASSISTANCE PROGRAM.

(a) DIRECTLY RELATED SERVICES.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by inserting "and provide advocacy on behalf of" after "to assist"; and

(B) by inserting "and advocacy" after "including assistance"; and

(2) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) MINIMUM STATE ALLOTMENTS.—Section 112(e)(1) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (pending ratification of the Compact of Free Association)";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau"; and

(3) in subparagraph (D)(ii)—

(A) by striking "subsection (c)" and inserting "clause (i)"; and

(B) by striking "by more than the percentage increase in the Consumer Price Index published monthly by the Bureau of Labor Statistics".

(d) EVALUATION.—Section 112 is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112(h) (as so redesignated by subsection (d)(2) of this section) is amended by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

SEC. 122. INNOVATION AND EXPANSION GRANTS.

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"PART C—INNOVATION AND EXPANSION GRANTS

"SEC. 120. STATE ELIGIBILITY.

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

"SEC. 121. CONTENTS OF STRATEGIC PLANS.

"(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS.

"(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be

updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

"SEC. 123. USE OF FUNDS.

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(2)(A) programs, projects, and activities designed to initiate, expand, and improve vocational rehabilitation services for individuals with the most severe disabilities (including increasing the availability of integrated, community-based service options and job opportunities through the redesign of existing service options);

"(B) special programs to initiate, expand, or improve services to classes of individuals with disabilities who have unusual or complex rehabilitation needs; and

"(C) programs that maximize the use of rehabilitation technology, including, if appropriate, the evaluation and adaptation to the workplace or training program;

"(3) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education and continuing education, and businesses, industry, and labor organizations in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, consumers, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(4) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(5) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(6) support the provision of training and technical assistance to consumers, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by Rehabilitation Act Amendments of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(7) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 704.

"SEC. 124. ALLOTMENTS AMONG STATES.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(B) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

SEC. 123. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

SEC. 124. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, particularly data on clients of the programs under title I of the Rehabilitation Act of 1973.

(b) CONSIDERATIONS.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend

improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of rehabilitation services, professionals in the field of vocational rehabilitation, consumers and organizations representing consumers, National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) SUBMISSION OF REPORT.—The Commissioner shall submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

SEC. 125. EXCHANGE OF DATA.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973, and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.

SEC. 126. ISSUANCE OF REGULATIONS.

(a) ORDER OF SELECTION.—The Secretary of Education shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) of the Rehabilitation Act of 1973 if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

(b) QUALITY OF SERVICES.—

(1) IN GENERAL.—The Secretary of Education shall promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services under section 102, and the procurement of such services directly by an individual with a disability consistent with section 102 of the Rehabilitation Act of 1973.

(2) PROCEDURES.—The regulations shall specify—

(A) procedures that States must adopt to ensure that the services are of sufficient scope and quality and that the costs of such services are reasonable; and

(B) procedures that prevent fraud, waste, and abuse with respect to the provision of such services.

SEC. 127. SOCIAL SECURITY REIMBURSEMENT PAYMENTS.

Any State that uses, during fiscal year 1992, program income from Social Security reimbursement payments generated under the State vocational rehabilitation services program under title I of the Rehabilitation Act of 1973 or the State supported employment services program under part C of title VI of such Act to support allowable expenditures under any other rehabilitation program under such Act may continue such use until October 1, 1994.

TITLE II—RESEARCH

SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) ensure the widespread distribution of practical information generated by research, demonstration projects, training, and related activities in usable formats regarding state-of-the-art practices, improvements in the services authorized under this Act, and new knowledge regarding disabilities to rehabilitation professionals, individuals with disabilities, and other interested parties; and

"(4) promote the transfer and utilization of rehabilitation technology to individuals with disabilities in order to enable such individuals to live more independently.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1)—

(A) by striking "other than expenses to carry out section 204" and inserting "which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204"; and

(B) by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;"; and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

(a) ESTABLISHMENT.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) RESPONSIBILITIES.—Section 202(b) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and their families;";

(2) in paragraph (4)—

(A) by adding "widely" before "disseminating"; and

(B) by striking "and to public" and all that follows and inserting the following: "to public and private entities, rehabilitation practitioners, and individuals with disabilities and their families, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(3) in paragraph (6), by striking "concerning" and all that follows and inserting the following ", concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) by striking paragraph (7) and inserting the following:

"(7) preparing and submitting to the President and the appropriate committees of Congress an annual report on the implementation and conduct of programs and activities carried out under this title, including—

"(A) information on specific advances and developments produced by such programs and activities and the specific impact of the programs and activities on—

"(i) vocational rehabilitation services for individuals with disabilities; and

"(ii) the quality of life of individuals with disabilities;

"(B) a description of the manner in which such information was disseminated; and";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census";

(B) by inserting "widely" before "disseminating"; and

(C) by inserting ", individuals with disabilities and their families," after "rehabilitation professionals"; and

(6) by adding at the end the following new paragraph:

"(9) coordinating with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) DIRECTOR.—

(1) IN GENERAL.—Section 202(c)(1) is amended by striking the fourth sentence.

(2) QUALIFICATIONS.—Section 202(c)(2) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS-17 of the General Schedule under section

5332" and inserting "a rate that does not exceed the rate specified for level V of the Executive Schedule under section 5316"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) in the last sentence, by striking "in grade GS-17" and inserting "above grade GS-15".

(d) FELLOWSHIPS.—Section 202(d) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) SCIENTIFIC REVIEW.—Section 202(e) is amended—

(1) by inserting "(1)" after "(e)";

(2) by striking "within" and inserting "by"; and

(3) by striking the period at the end and inserting the following: "competent to review research grants and programs, including knowledgeable individuals with disabilities and family members of individuals with disabilities. Individuals comprising such peer review groups shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review.

"(2) In providing such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities and their representatives.".

(f) USE OF FUNDS.—Section 202 is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) LONG-RANGE PLAN.—Section 202(g) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and their families, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in practical, usable formats to rehabilitation practitioners, individuals with disabilities, including individuals with disabilities who are from diverse ethnic and cultural backgrounds, or from populations unserved, or underserved, by programs under this Act, and the families of the individuals;

"(6) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act, the Interagency Committee established under section 203, individuals with disabilities and their families, and any other persons or entities the Director considers appropriate; and

"(7) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) RESEARCH PROGRAM.—Section 202(i)(2) is amended by striking "this section" and inserting "this title".

(i) PEDIATRIC REHABILITATION RESEARCH.—Section 202(j) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) REHABILITATION RESEARCHERS.—Section 202(k) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to areas of research that improve the effectiveness of services authorized under this Act.".

(k) RECOMMENDATIONS AND STUDY.—Section 202 is amended by striking subsections (l) and (m).

SEC. 204. INTERAGENCY COMMITTEE.

(a) ESTABLISHMENT.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) IDENTIFICATION, ASSESSMENT, AND COORDINATION.—Section 203(b) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and their families, the".

(c) REPORT.—Section 203(c) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

SEC. 205. RESEARCH.

(a) IN GENERAL.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, and VII of this Act."; and

(2) in the last sentence—

(A) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(B) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are from populations that are unserved, or underserved, by programs under this Act.".

(b) RESEARCH ACTIVITIES.—Section 204(b) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (5) through (16), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research activities described in paragraphs (2) through (16).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services, to serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and their families.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services; and

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration and enable individuals with disabilities to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope and quality as to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) have the ability to carry out the training activities either directly or through another entity that can provide such training.

"(K) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(L) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(M) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and their families.

"(N) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Technology Research and Resource Centers operated by or in collaboration with institutions of higher education or nonprofit private organizations to conduct research, demonstration projects, and training activities regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for, better meeting the needs of, and addressing the barriers confronted by individuals with disabilities in employment, rehabilitation, education, transportation, communication, access to information, recreation, and other aspects of independent living.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out research and demonstration activities by—

"(i) planning and conducting research and development activities designed to produce new scientific knowledge, to identify new or emerging technologies, to develop or improve the design of rehabilitation technologies, to improve the design and usability of mass market products and environments, or to document the utilization, effectiveness, and benefits of such technologies, products, or environments; or

"(ii) facilitating service delivery systems change, by documenting, evaluating, and disseminating innovative, cost-effective service delivery models that—

"(I) are consumer responsive and individual and family centered; and

"(II) promote prompt utilization of a wide range of rehabilitation technologies, with special attention to service delivery to individuals with severe disabilities and service delivery in rural and urban areas.

"(C) To the extent consistent with the nature and type of research or demonstration activities provided under subparagraph (B), such Centers shall—

"(i) assist, train, and provide information to individuals with disabilities and their families to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options and entitlements available at the national, State, and local levels; and

"(ii) train individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology.

"(D) Areas of focus for the activities conducted by a Center shall include—

"(i) a life area consisting of—

"(I) early childhood life, including early intervention and family support;

"(II) education at the elementary and secondary levels, including transition from school to postschool activities;

"(III) employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 and title V; or

"(IV) independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills and activities of daily living; or

"(ii) a functional area, including an area such as seating and positioning, mobility, computer and information system access and use, augmentative communication, or alternative communication.

"(E) Each Center shall—

"(i) have an advisory committee—

"(I) of which the majority of members are individuals with disabilities who are users of, or parents, family members, guardians, advocates, or authorized representatives of users of, rehabilitation technology; and

"(II) the full membership of which shall be broadly representative of individuals and groups having an interest in rehabilitation technology, from various perspectives, including providers, manufacturers, funders, and practitioners, and members of minority groups;

"(ii)(I) demonstrate effective working relationships with the State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals with Disabilities Act;

"(II) respond to needs of all individuals with disabilities who may benefit from the application of technology in a particular life or functional area that is the designated focus of the activities of the Center;

"(III) coordinate efforts, encourage planning and collaboration, and promote the interchange of data, reports, and other information, among the agencies, programs and organizations; and

"(IV) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, an annual report that documents the impact and outcomes of the program, including efforts to enhance the inclusion of individuals with disabilities in work, school, home, and other natural environments.

"(F) The Director shall make grants under this paragraph for period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(G) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(4)(A) Research grants may be used as grants to States and to public or nonprofit agencies and organizations, including institutions of higher education, to pay for part or all of the costs of conducting a program for spinal cord injury research, including the costs of special projects and demonstrations related to spinal cord injuries that will—

"(i) ensure dissemination of research findings among all spinal cord injury centers;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any project or demonstration assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, or improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with barriers faced by individuals with spinal cord injuries in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed spinal cord injury center and the appropriate geographic and regional allocation of such centers.";

(3) in paragraphs (5) through (16), as so redesignated by paragraph (1), by striking "Conduct" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct"; and

(4) in paragraph (9), as so redesignated by paragraph (1), to read as follows:

"(9) Research grants may be used to conduct a program of research related to the re-

habilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.".

(c) SIZE OF GRANT.—Section 204(d)(2) is amended by striking the period at the end and inserting the following: ", or the Director makes a determination that there is sufficient information to make an award without a site visit.".

(d) CONFORMING AMENDMENT.—Section 7303(b) of title 38, United States Code, is amended by striking "section 204(b)(2)" and all that follows through "(relating to Rehabilitation Engineering" and inserting "section 204(b)(3) or 804(b) of the Rehabilitation Act of 1973 (relating to Rehabilitation Technology".

SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.

(a) COUNCIL.—Title II is amended by adding at the end the following new section:

"SEC. 205. REHABILITATION RESEARCH ADVISORY COUNCIL.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, and the community of individuals with disabilities and their families. At least one-half of the members shall be individuals with disabilities or members of their families.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) COMPENSATION AND EXPENSES.—

"(1) COMPENSATION.—Each member of the Council who is not an employee of the Federal Government may receive compensation, which shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Council, including attendance at meetings and conferences of the Council, and travel to conduct the duties of the Council.

"(2) TRAVEL EXPENSES.—Each member of the Council shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, their parents, families, guardians, advocates, or authorized representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 300, 302, 303, and 304 (29 U.S.C. 770 et seq.) as sections 301, 303, 304, and 302, respectively; and

(4) by inserting section 302 (as so redesignated by paragraph (3)) after section 301.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

"Sec. 301. Declaration of purpose.
"Sec. 302. Training.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for the individuals who are blind.
"Sec. 315. Interpreter services for the individuals who are deaf.
"Sec. 316. Special recreational programs.
"Sec. 317. Independent living services for older individuals who are blind.".

SEC. 302. TRAINING.

(a) TRAINING GRANTS.—Section 302(a) (as so redesignated by section 301(b)(3)) is amended—

(1) in the first sentence—

(A) in the matter preceding paragraph (1), by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to those individuals with the most severe disabilities, and";

(2) in the second sentence, by striking "give due regard" and all that follows and inserting "submit to the Commissioner a detailed description of strategies that will be utilized to recruit and train members of minority groups and individuals with disabilities."; and

(3) in the last sentence, by striking ", in addition" and all that follows and inserting "furnish training regarding the services provided under this Act and, in particular, services provided in accordance with amendments made by the Rehabilitation Act

Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out the provisions of this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of the provisions of section 504 and of the Americans with Disabilities Act of 1990.".

(b) PROJECTS.—Section 302(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

"(B) Projects described in subsection (a) may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individuals from populations who are unserved, or underserved, by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists;

"(IV) specialized services for individuals with severe disabilities; or

"(V) recreation for individuals with disabilities; and

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities."; and

(2) in paragraph (3)(A), by striking clause (i) and inserting the following:

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of two years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and".

(c) GRANTS FOR INTERPRETERS.—Section 302(d) is amended—

(1) in paragraph (1)—

(A) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(B) in subparagraph (C), by adding "and" at the end;

(C) by striking subparagraph (D); and

(D) by redesignating subparagraph (E) as subparagraph (D).

(d) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 302(e) is amended—

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(2) in paragraph (2), by striking "the daily rate payable for grade GS-18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 302(f) is amended—

(1) by inserting "(1)" after "(f)";

(2) in the first sentence of paragraph (1) (as so designated by paragraph (1)) by striking "$31,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(3) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), at least 20 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used for projects for inservice training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training on the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 20 percent of the sums described in subparagraph (A) to designated State agencies for such inservice training.".

SEC. 303. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (as so redesignated by section 301(b)(3)) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

(b) ESTABLISHMENT.—Section 303(b) is amended—

(1) in paragraph (1)—

(A) by striking "training" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following new sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence, by striking "and such allowances" and all that follows and inserting a period; and

(iii) in the sentence beginning "In determining"—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants upon application approved by the designated State agency to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

SEC. 304. LOAN GUARANTEES FOR COMMUNITY REHABILITATION PROGRAMS.

Section 304 (as so redesignated by section 301(b)(3)) is amended—

(1) in the title, by striking "REHABILITATION FACILITIES" and "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

SEC. 305. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

SEC. 306. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310 (29 U.S.C. 777(a)) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, 316, and 317";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

SEC. 308. SPECIAL DEMONSTRATION PROGRAMS.

(a) ESTABLISHMENT.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1), by striking "and, where appropriate, constructing facilities";

(2) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(3) by striking the last sentence.

(b) PROJECTS TO ACHIEVE HIGH QUALITY PLACEMENTS.—Section 311 is amended by striking subsection (b) and inserting the following:

"(b)(1) The Commissioner may make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations providing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with severe disabilities.

"(2) The recipient of the grant shall—

"(A) identify exemplary models that can be replicated for achieving such placements; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.".

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(d) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) in subparagraph (B), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(e) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3); and

(3) in paragraph (3) (as so redesignated by paragraph (2) of this subsection) by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 309. MIGRATORY WORKERS.

(a) COLLABORATION.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "or to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 312 is amended by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

SEC. 310. SPECIAL RECREATIONAL PROGRAMS.

(a) GRANTS.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment" after "aid in the"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "and that with respect" and all that follows and inserting a period; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Federal share of the costs of the recreation programs shall be 90 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 311. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Title III is amended by adding at the end the following new section:

"SEC. 317. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

"(a) GRANTS.—The Commissioner may make grants to any designated State unit to provide independent living services and related services designed to assist older individuals who are blind to adjust to blindness by becoming more able to care for individual needs.

"(b) USE OF GRANTS.—

"(1) REQUIRED SERVICES.—A designated State unit shall use funds received under a grant described in subsection (a) to provide independent living skills training, information and referral services, peer counseling, and individual advocacy training.

"(2) ADDITIONAL SERVICES.—A designated State unit may use funds received under a grant described in subsection (a) to provide—

"(A) services to help correct blindness, such as—

"(i) outreach services;

"(ii) visual screening;

"(iii) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(iv) hospitalization related to such services to help correct blindness;

"(B) the provision of eyeglasses and other visual aids;

"(C) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(D) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(E) guide services, reader services, and transportation;

"(F) any other appropriate services designed to assist an older individual who is blind in coping with daily living activities, including supportive services or rehabilitation teaching services; and

"(G) other independent living services.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, a designated State unit shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including the information and assurances described in paragraph (2), and shall obtain approval of the application.

"(2) CONTENTS.—An application for a grant under this section shall contain—

"(A) an assurance that the designated State unit will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 703.

"(d) GRANTS TO AGENCIES OR ORGANIZATIONS.—A designated State unit may use funds received under a grant described in subsection (a) to make grants to public or nonprofit private agencies or organizations to—

"(1) conduct activities that will improve or expand services for older individuals who are blind and help improve public understanding of the problems of such individuals; and

"(2) provide independent living services and related services in accordance with subsection (b) to older individuals who are blind.

"(e) DEFINITION.—For purposes of this section, the term 'older individual who is blind' means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs."; and

(C) in the last sentence, by striking "five" and inserting "a majority of"; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) TERMS.—Section 400(b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2) No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.".

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and administration of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities," and inserting "practices, procedures,".

(3) in paragraph (5), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(4) in paragraph (6)—

(A) by inserting "with respect to the duties described in paragraphs (1) through (5) and in paragraph (9)," after "(6)";

(B) by striking "and" after "the Secretary,"; and

(C) by striking "respecting ways" and all that follows and inserting "and other officials of Federal executive agencies, respecting ways to better promote the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(5) in paragraph (7), by striking "(A)" and all that follows and inserting "a summary of the activities and accomplishments of the Council;";

(6) in paragraph (8), by striking the period and inserting "; and"; and

(7) by adding at the end the following:

"(9) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401 is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than October 30, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of Congress, a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education.

"(3) The report shall assess the status of the Nation in achieving the policies set forth in subparagraphs (A) and (B) of section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall include recommendations for policy changes.

"(4) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report in accordance with paragraph (3), the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

(c) 1995 REPORT.—The National Council on Disability shall include, in a report submitted not later than October 30, 1995 in accordance with section 401(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 781(b)(1)), information and analysis concerning the implementation by the designated State agencies and the Department of Education of the amendments made by Rehabilitation Act Amendments of 1992.

SEC. 403. COMPENSATION OF MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "at a rate equal to the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 404. COMPENSATION OF STAFF.

(a) NUMBER OF POSITIONS.—Section 403(a)(2) (29 U.S.C. 783(a)(2)) is amended by striking "not to exceed seven" and inserting "seven or more".

(b) RATE OF PAY.—Section 403(b)(1) is amended by striking "not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332" and inserting "not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997".

TITLE V—ACCESS

SEC. 501. ACCESS.

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—ACCESS".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—ACCESS".

SEC. 502. EFFECT ON EXISTING LAW.

(a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons or the Director or Chairman shall serve as sole chairperson, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a

complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least one-half"; and

(B) in subparagraph (B), by adding at the end the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS–18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(c) FUNCTION.—Section 502(b) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service) including enforcing all standards under such Act, and ensuring that all waivers and modifications to standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislation and administration as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5) of this subsection; and

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "In carrying out its functions under this Act, the Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for profit organizations, carry out its functions under subsections (b) and (c) of this section, and" and inserting "The Access Board"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) is amended—

(1) by striking "The departments" and inserting the following:

"(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in paragraph (2), as so designated by paragraph (1)—

(A) by striking "subsection" and inserting "paragraph" in the second sentence; and

(B) in the second sentence—

(i) by striking "Secretary" and inserting "Chairperson"; and

(ii) by striking "the daily pay rate for a person employed as a GS–18 under section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316".

(f) REPORT.—Section 502(g) is amended—

(1) by inserting "(1)" after "(g)";

(2) in paragraph (1), as so designated by paragraph (1) of this subsection—

(A) in the second sentence, by striking "clauses (5) and (6)" and inserting "paragraphs (7) and (8)"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) is amended—

(1) by striking paragraph (1) and all that follows through "(2)" and inserting "(1)";

(2) in paragraph (1), as so redesignated by paragraph (1) of this subsection, by striking the second and third sentences; and

(3) by adding at the end the following:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered to be a gift, devise, or bequest to the United States.

"(B) The Access Board shall issue regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in the program.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) is amended by striking "fiscal years 1987 through 1992" and inserting "fiscal years 1993 through 1997".

SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "$2,500" each place the term appears and inserting "$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".

(b) WAIVER.—Section 503(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

"(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.".

(c) STANDARDS AND PROCEDURES.—Section 503 is amended by adding at the end the following:

"(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.

"(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.".

SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.

Section 504 is amended by adding at the end the following new subsection:

"(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990, as such sections relate to employment.".

SEC. 507. SECRETARIAL RESPONSIBILITIES.

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting "Access" before "Board" each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(c) COMPENSATION.—Section 506(b) is amended by striking "the rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332" and inserting "the rate specified for level V of the Executive Schedule under section 5316".

(d) CONFORMING AMENDMENT.—Section 506(c) is amended by striking "502(h)(2)" and inserting "502(h)(1)".

SEC. 508. INTERAGENCY COORDINATING COUNCIL.

The first sentence of section 507 (29 U.S.C. 794c) is amended by striking "Chairperson of the Office of Personnel Management" and inserting "Director of the Office of Personnel Management".

SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

"(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce and have access to information and data comparable to the access of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines.".

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PILOT PROGRAM.

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking "section 7(8)" and inserting "section 7(8)(A)".

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 603. DEFINITIONS.

Section 616 (29 U.S.C. 795e) is amended—

(1) by striking "; and" at the end of paragraph (2) and inserting a period; and

(2) by striking paragraph (3).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

SEC. 605. PROJECTS WITH INDUSTRY.

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job opportunities and the skills needed to perform such jobs, to create practical job readiness and training programs, and to provide job placements.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job availability within the community;

"(iii) identify the skills necessary to perform the jobs identified; and

"(iv) prescribe training programs designed to develop job skills appropriate for the jobs in individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment in the competitive market;

"(C) provide job placement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of services provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business

and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated coworkers of the individual, and that such individuals with disabilities shall not be segregated from the co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (h) of section 621 are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2)(A) The Commissioner shall to the extent practicable assure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are not currently served or are underserved by projects.

"(B) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable.

"(3) The Commissioner shall review each annual evaluation report submitted under subsection (b)(3) and, using indicators described in subsection (f)(1), make a determination concerning the termination, modification, or renewal of each grant under this section.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1).

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) The Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).

"(4) The term 'workers with disabilities' shall mean more than one individual with a disability who—

"(A) is working in competitive employment; and

"(B) needs new or upgraded skills to—

"(i) improve the employment opportunities of the individual; and

"(ii) adapt to emerging technologies, work methods, and markets.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 623 (29 U.S.C. 795i) is amended by striking "$16,070,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 607. SUPPORTED EMPLOYMENT.

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"SEC. 631. PURPOSE.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for those individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

"SEC. 632. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that no State shall receive—

"(A) less than $250,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) for a fiscal year in which the amounts appropriated to carry out this part exceed by not less than $1,000,000 the appropriations made to carry out this part in fiscal year 1992, less than $300,000, or one-third of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) OTHER JURISDICTIONS.—

"(A) DEFINITION.—For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"(B) MINIMUM ALLOTMENT.—Each of the jurisdictions described in subparagraph (A) shall be allotted not less than one-eighth of 1 percent of the amounts appropriated for each such jurisdiction for the fiscal year for which the allotment is made, except that Palau shall be allotted not less than such one-eighth for the fiscal year, pending ratification of the Compact of Free Association.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State to carry out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State for such year.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (d) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A) identifies supported employment as the appropriate rehabilitation objective for the individual.

"SEC. 635. STATE PLAN.

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency such State designated under section 101(a)(2)(B) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment of the rehabilitation needs of individuals with severe disabilities conducted under section 101(a)(5), with respect to the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of efforts to identify and make arrangements with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of efforts to identify and make arrangements with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments conducted under section 102(b)(1)(A) and funded under title I of individuals with severe disabilities will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided onsite; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

"SEC. 637. SAVINGS PROVISION.

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

SEC. 701. CENTERS AND SERVICES.

(a) PROGRAMS.—The Act is amended by striking title VII (29 U.S.C. 796 et seq.) and inserting the following new title:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this title is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to develop and support statewide networks of centers for independent living;

"(2) providing financial assistance to States for providing, expanding, and improving the provision of independent living services; and

"(3) providing financial assistance to States to improve working relationships among—

"(A) centers for independent living;

"(B) Statewide Independent Living Councils established under section 704;

"(C) State vocational rehabilitation programs receiving assistance under title I;

"(D) State programs of supported employment services receiving assistance under part C of title VI;

"(E) client assistance programs receiving assistance under section 112;

"(F) programs receiving assistance under other titles of this Act;

"(G) programs receiving assistance under other Federal programs; and

"(H) programs receiving assistance through non-Federal sources.

"SEC. 702. DEFINITIONS.

"As used in this title:

"(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

"SEC. 703. STATE PLAN.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible to receive financial assistance under this title, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such information as the Commissioner may require, including, at a minimum, the information required under this section.

"(2) SUBMISSION.—The plan shall be jointly signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) REVIEW AND REVISION.—The plan shall provide for the review and revision, not less often than once every 3 years, of the plan to ensure the existence of appropriate planning, financial support, coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the development and support of a statewide network of centers for independent living;

"(B) the provision of independent living services; and

"(C) working relationships among—

"(i) such centers and services; and

"(ii) the vocational rehabilitation program established under title I and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this title until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 704.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this title based on the plan;

"(2) provide administrative support services for programs under parts B and C;

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this title.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this title to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this title to meet such objectives.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 724.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, the State plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) WORKING RELATIONSHIPS.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the Statewide Independent Living Council and centers for independent living; and

"(2) the designated State unit, other State agencies represented on the Statewide Independent Living Council, councils that address the needs of specific disability populations and issues under other Federal law, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION BETWEEN CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES.—The plan shall describe how services provided under part B will be coordinated with, or complement, services provided under part C.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—The plan shall set forth steps to be taken regarding outreach to unserved and underserved populations with respect to services provided under this title and centers funded under this title.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this title will—

"(1) notify all individuals seeking or receiving services under this title about the availability of the Client Assistance Program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this title;

"(4)(A) keep such records, as the Commissioner may determine to be appropriate including records that fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit; and

"(B) afford such access to such records, and submit such reports with respect to information contained in such records, as the Commissioner may determine to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives to be achieved under the plan, including evaluation of satisfaction by individuals with disabilities.

"(o) ADMINISTRATIVE COSTS.—The plan shall include an assurance that the designated State agency will not use more than 5 percent of the financial assistance made available under this title to pay for the administrative costs of carrying out this title. Funds used to support the resource plan for the Statewide Independent Living Council under section 704(e) shall not be considered to be used to pay for such administrative costs.

"SEC. 704. INDEPENDENT LIVING COUNCIL.

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this title, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF THE COUNCIL.—The Council shall—

"(1) develop and submit (in conjunction with the designated State agency) the State plan required by this title;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under part B of this title and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"SEC. 705. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 703 that the Commissioner determines meets the requirements of section 703, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 703.

"(B) APPLICATION.—For purposes of the application describe in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 703.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 724.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards set forth in section 724. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this title.

"SEC. 706. AUTHORIZATION OF APPROPRIATIONS.

"(a) INDEPENDENT LIVING SERVICES.—There are authorized to be appropriated to carry out part B such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(b) CENTERS FOR INDEPENDENT LIVING.—There are authorized to be appropriated to carry out part C such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—There are authorized to be appropriated to carry out part D such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraph (1)(C) and under paragraph (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for

which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (a)(1)(B), or under subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2) as increased in accordance with subsection (a)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.

"(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 705. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 705.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF FUNDS.

"The State shall use funds received under this part to provide the resources described in section 704(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to unserved and underserved populations with respect to services provided under this title.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (e).

"(b) RESERVATION FOR TRAINING AND TECHNICAL ASSISTANCE.—

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, the lesser of—

"(A) the amount of the excess; or

"(B) $550,000 or 2 percent of such funds, whichever is greater.

"(2) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 705 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $3,500,000, the allotment to any State under subparagraph (A) shall be not less than $500,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $500,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts; and

"(ii) if such excess is less than $3,500,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts.

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States. Each jurisdiction described in the preceding sentence shall be allotted not less than one-eighth of 1 percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau shall receive such one-eighth of 1 percent pending ratification of the Compact of Free Association.

"(3) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (1)(C) and (2) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(A) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(B) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(d) PROPORTIONAL REDUCTION.—Amounts necessary to increase the allotments of States under subsection (c)(1)(B), or under subsection (c)(1)(C) as increased under subsection (c)(3), or to provide allotments under subsection (c)(2) as increased in accordance with subsection (c)(3), shall be derived by proportionately reducing the allotments of the remaining States under subsection (c)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $500,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(3).

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"(f) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Secretary shall first reserve from the funds appropriated to carry out this part, $550,000 or 2 percent of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies and organizations described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993 such agencies will meet the standards described in section 724(b) and that contain the assurances described in section 724(c). In determining whether a center meets the standards described in section 724(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 724; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently not served, or are underserved, by independent living programs, consistent with the provisions of the State plan submitted under section 703 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c), (d), or (e) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 724.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 703, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 724 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 724;

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 724.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 703 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 724 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 724;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living that comply with the standards and assurances set forth in section 724, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living that comply with the standards and assurances set forth in section 724.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 724. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 724, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall con-

duct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of a State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this title and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall assist in the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this title.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 703;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a severe disability on the same terms and conditions required with respect to the employment of individuals with a disability under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disability receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the Client Assistance Program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach unserved and underserved populations of individuals with severe disabilities;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (7);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (7) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 703(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

"SEC. 725. DEFINITIONS.

"As used in this part, the terms 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 726. CENTERS OPERATED BY STATE AGENCIES.

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(f)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

"SEC. 727. EFFECTIVE DATE.

"The provisions of this part shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of the Rehabilitation Act of 1973, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 731. PURPOSE.

"It is the purpose of this part to support systems to protect the legal and human

rights of individuals with disabilities whose request for services cannot be addressed by, or who are ineligible for, the Client Assistance Program under section 112 and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 6041 et seq.) (referred to in this part as 'protected individuals').

"SEC. 732. PROGRAM AUTHORIZATION AND ALLOTMENTS.

"(a) TECHNICAL ASSISTANCE.—From the amount appropriated to carry out this part for a fiscal year, the Secretary shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this part.

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part is less than $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot an equal amount to each eligible system, except as provided in paragraph (3).

"(3) ELIGIBILITY.—An eligible system that received funds from appropriations for fiscal year 1992 to carry out part D of title VII of this Act, as in effect on the day before the date of enactment of this section, shall not be eligible for such allotments under this part for fiscal year 1993 unless the amount of the allotment as determined in paragraph (2) is greater than the amount of funds received by such system for such year under such part.

"(4) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) ALLOTMENTS.—After making the reservation required by subsection (a), for any fiscal year in which the amount appropriated to carry out this part equals or exceeds $5,500,000, the Secretary may make allotments from the remainder of such amount in accordance with paragraph (2) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this part for protected individuals.

"(2) BASIS.—From such remainder for each such fiscal year, the Secretary shall allot to each eligible system within a State an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States. Except as provided in paragraph (3), the allotment to any system under the preceding sentence shall not be less than $100,000 or one-third of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this part for any fiscal year that is less than $100,000 or one-third of 1 percent of such remainder shall be increased to the greater of the two amounts.

"(3) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be considered to be States and shall each be allotted not less than $50,000 for the fiscal year for which the allotment is made.

"(d) ADJUSTMENT.—In any case in which the total amount appropriated to carry out this part for a fiscal year exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under paragraphs (2) and (3) of subsection (a) by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount that is equal to the difference between—

"(1) the total amount appropriated to carry out this part for the fiscal year for which the increase in minimum allotment is being made; minus

"(2) the total amount appropriated to carry out this part for the immediately preceding fiscal year,

bears to the total amount appropriated to carry out this part for such preceding fiscal year.

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—The amount of an allotment to a State for a fiscal year under subsection (b) or (c) that the Secretary determines will not be required by the State during the period for which the allotment is available for the purpose for which it was allotted shall be available for reallotment by the Secretary at appropriate times to other States with respect to which such a determination has not been made.

"(2) PROPORTION.—The amount shall be available for reallotment to such States, except as provided in paragraph (3) in proportion to the original allotments of such States for such fiscal year.

"(3) REDUCTION.—The sum to be reallotted to a State under paragraph (2) shall be reduced to the extent the sum exceeds the sum the Secretary estimates such State needs and will be able to use during such fiscal year. The total of such reduction shall be similarly reallotted among the States whose sums were not so reduced. Any such amount reallotted to a State under this subsection for a fiscal year shall be deemed to be part of the allotment of the State for such fiscal year.

"SEC. 733. ELIGIBILITY FOR ASSISTANCE.

"As used in this part, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act and that meets the requirements of section 734.

"SEC. 734. SYSTEM REQUIREMENTS.

"(a) ELIGIBILITY.—To be eligible to receive assistance under this part, a system shall—

"(1) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act;

"(2) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including individuals with disabilities and their representatives, as appropriate, and other persons, an opportunity to comment on the objectives and priorities established and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this part with protection and advocacy programs established under the Developmental Disabilities Assistance and Bill of Rights Act and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986, the Client Assistance Program under section 112, and the State long-term care ombudsmen program established under the Older Americans Act of 1965; and

"(3) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with disabilities have full access to services of the system.

"(b) ASSURANCES.—To be eligible to receive assistance under this part, a system shall provide assurances to the Secretary that funds made available under this part will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided and such additional assurances and information as the Commissioner considers appropriate.

"SEC. 735. DIRECT FUNDING.

"Notwithstanding any other provision of law, the Secretary shall pay directly to any system that complies with the provisions of this part, the amount of the allotment of the system under this part, unless the system designates another entity to receive payment.

"SEC. 736. DELEGATION.

"The Secretary may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—CENTERS FOR INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. State plan.
"Sec. 704. Independent living council.
"Sec. 705. Responsibilities of the Commissioner.
"Sec. 706. Authorization of appropriations.

"PART B—SERVICES FOR INDEPENDENT LIVING

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers for independent living.
"Sec. 725. Definitions.
"Sec. 726. Centers operated by State agencies.
"Sec. 727. Effective date.

"PART D—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"Sec. 731. Purpose.
"Sec. 732. Program authorization and allotments.
"Sec. 733. Eligibility for assistance.
"Sec. 734. System requirements.
"Sec. 735. Direct funding.
"Sec. 736. Delegation.".

TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

SEC. 801. PROJECTS.

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by adding at the end the following:

"TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(c) RESEARCH INITIATIVES.—There are authorized to be appropriated to carry out section 804, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"SEC. 802. DEMONSTRATION PROJECTS.

"(a) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

"(1) GRANTS.—

"(A) ESTABLISHMENT.—The Commissioner may make grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the choice of providers of vocational rehabilitation services.

"(B) USE OF FUNDS.—An entity that receives a grant under subparagraph (A) may use funds made available through the grant—

"(i) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(ii) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(2) AWARD OF GRANTS.—In making grants under paragraph (1), the Commissioner may take into consideration the—

"(A) diversity of strategies to be used to increase client choice, including choice among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(3) APPLICATION.—To be eligible to receive a grant under paragraph (1), an entity shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a description of—

"(i) the manner in which the entity intends to promote increased consumer choice, including a description, if appropriate, of the manner in which the entity will determine the value of any voucher offered to an eligible client; and

"(ii) the outreach activities to be conducted by the entity to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals of the client;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for the initiation of the services, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule for determining whether such goals are being achieved.

"(4) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(5) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection must be used for direct services, as specifically chosen by the eligible clients.

"(6) EVALUATION.—

"(A) IN GENERAL.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers.

"(B) RESERVATION.—The Commissioner may reserve funds to carry out the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(7) DEFINITIONS.—As used in this subsection:

"(A) DIRECT SERVICES.—The term 'direct services' means the vocational rehabilitation services specified in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability as defined in section 7(8)(A) who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

"(b) TRANSITION DEMONSTRATION PROJECTS.—

"(1) GRANTS.—The Commissioner may make grants to public and nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) EVALUATION.—An agency or organization that receives a grant under this paragraph shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(c) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(d) DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.—

"(1) GRANTS.—Consistent with the purpose of section 621, the Commissioner may award grants to partnerships or consortia that include private business concerns or industries to assist the partnerships or consortia in developing and carrying out model demonstration projects for workers with disabilities to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) PERIOD.—Grants awarded under this subsection shall be for a 3-year period.

"(3) APPLICATION.—Any partnership or consortium desiring a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) providing assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) an evaluation report containing data specified by the Commissioner will be submitted at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(4) FEDERAL PAYMENTS.—Federal payments under this subsection with respect to any project may not exceed 80 percent of the costs of the project.

"(5) DEFINITION.—As used in this subsection, the term 'workers with disabilities' shall mean more than one individual with a disability who—

"(A) is working in competitive employment; and

"(B) needs new or upgraded skills to—

"(i) improve the employment opportunities of the individual; and

"(ii) adapt to emerging technologies, work methods, and markets.

"SEC. 803. TRAINING INITIATIVES.

"(a) REHABILITATION TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—For the purpose of addressing unmet and emerging needs in the area of rehabilitation training, the Commissioner may make grants to and enter into contracts with State and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of establishing rehabilitation training projects.

"(2) PROJECTS.—Such a rehabilitation training project may provide training, traineeships, inservice training, continuing education, workshops, and technical assistance, and carry out related activities, designed to—

"(A) develop or improve the skills of rehabilitation personnel, including supported em-

ployment program personnel, client assistance program personnel, independent living center personnel, and personnel providing rehabilitation technology, to provide services under this Act to individuals with disabilities;

"(B) provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act; or

"(C) develop the skills of individuals with disabilities, their parents, family members, guardians, advocates, or authorized representatives, and other appropriate parties, to become active decisionmakers in the rehabilitation process.

"(3) AREAS.—An agency or organization that receives a grant or enters into a contract under paragraph (1) shall use funds made available through the grant or contract to establish a rehabilitation training project concerning—

"(A) rehabilitation technology;

"(B) job placement;

"(C) transition services;

"(D) best practices in serving individuals with specific disabilities, including disability groups that are emerging, or are unserved, or underserved, by programs under this Act;

"(E) best practices in serving individuals from diverse ethnic and cultural backgrounds; or

"(F) the provisions of this Act and related Acts, including the Americans with Disabilities Act of 1990.

"(4) CONSIDERATIONS.—In making a grant to, or entering into a contract with, an agency or organization under paragraph (1), the Commissioner shall consider the ability of the agency or organization—

"(A) to maximize training opportunities for the widest possible audience, including the ability to provide such training in rural or remote areas through distance training techniques;

"(B) to utilize multidisciplinary training for persons from a variety of rehabilitation settings, such as—

"(i) community rehabilitation program personnel;

"(ii) personnel of client assistance programs, independent living centers, and supported employment programs; and

"(iii) individuals with disabilities and their families; and

"(C) to provide training materials in accessible formats.

"(5) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(b) TRAINING AND INFORMATION GRANTS.—

"(1) DEFINITION.—As used in this subsection, the term 'covered individual' means—

"(A) an individual with a disability;

"(B) a parent, family member, guardian, advocate, or authorized representative, of such an individual; and

"(C) another appropriate party.

"(2) ESTABLISHMENT.—The Commissioner may make grants to nonprofit private organizations to establish training and information programs for covered individuals to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities.

"(3) REQUIREMENTS.—Such training and information programs shall be designed to—

"(A) meet the unique training and information needs of covered individuals, including covered individuals who are members of groups that have been traditionally underrepresented, who are living in the area to be served by the grant; and

"(B) serve individuals with disabilities with the full range of disabilities, the parents, family members, guardians, advocates, and authorized representatives, of such individuals, and other appropriate parties.

"(4) AWARD OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that—

"(A) the grants are distributed geographically to the greatest extent possible throughout all the States; and

"(B) targeted to covered individuals—

"(i) in both urban and rural areas;

"(ii) within a State; or

"(iii) within a region.

"(5) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), a nonprofit private organization shall—

"(A)(i) be governed by a board of directors that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee to operate the training and information program under this section, that includes professionals in the field of vocational rehabilitation or related fields and on which a majority of members are individuals with disabilities or parents, family members, guardians, or authorized representatives, of such individuals; and

"(B) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to conduct effectively the training and information activities authorized under this section.

"(6) CONSULTATION.—Each nonprofit private organization operating a training and information program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist covered individuals located in the jurisdictions served by the program.

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(8) COORDINATION AND TECHNICAL ASSISTANCE.—The Commissioner shall, by grant, contract, or cooperative agreement, provide coordination and technical assistance for establishing, developing, and coordinating such training and information programs.

"(c) BRAILLE TRAINING GRANTS.—

"(1) ESTABLISHMENT.—The Commissioner may make grants to and enter into contracts with State and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel providing rehabilitation services or educational services to youth and adults who are blind.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of Braille training materials; and

"(B) inservice or preservice training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"SEC. 804. RESEARCH INITIATIVES.

"(a) GRANTS.—

"(1) ESTABLISHMENT.—In addition to carrying out projects under section 204, the Director of the National Institute on Disability and Rehabilitation Research may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research activities described in paragraphs (2) through (4).

"(2) REHABILITATION TECHNOLOGY RESEARCH AND RESOURCE CENTER.—Such grants may be used for the establishment and support of a Rehabilitation Technology Research and Resource Center that meets the requirements of subparagraphs (A) through (C), and (E) through (G), of section 204(b)(3). Such a Center shall have an area of focus not identified in section 204(b)(3)(D) and shall conduct research or demonstration activities relating to emerging program trends and technologies, based on public input and the recommendation of the Rehabilitation Research Advisory Council established under section 205.

"(3) MODEL SYSTEMS.—Research grants may be used to establish model systems of comprehensive service delivery to individuals with severe disabilities other than spinal cord injuries requiring a multidisciplinary system of providing vocational and other rehabilitation services where the Director determines that the development of such systems is needed.

"(4) MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.—Research grants may be used to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.".

(b) ACCOUNT.—There shall be established an account with a distinct designated budget account identification code number in the President's budget, for activities under title VIII of the Rehabilitation Act of 1973. Funding for such activities shall be available only to such extent as is provided, or in such amounts as are provided, in appropriations Acts. Such account shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

(c) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by adding at the end the following:

"TITLE VIII—RESEARCH, TRAINING, AND DEMONSTRATION PROJECTS

"Sec. 801. Authorization of appropriations.
"Sec. 802. Demonstration projects.
"Sec. 803. Training initiatives.

"Sec. 804. Research initiatives.".

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

SEC. 901. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

SEC. 902. CONTINUED OPERATION OF CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;";

(C) by striking "and" after the semicolon in paragraph (3) (as so redesignated by subparagraph (A));

(D) by striking the period in paragraph (4) (as so redesignated by subparagraph (A)) and inserting "; and"; and

(E) by inserting after paragraph (4) (as so redesignated by subparagraph (A)) the following new paragraph:

"(5) maintain a national registry in order to provide information and data regarding individuals who are deaf-blind.".

SEC. 903. AUDIT, MONITORING, AND EVALUATION.

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

SEC. 904. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

SEC. 905. DEFINITIONS.

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or, if there is a field defect, central acuity of 20/200 such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

SEC. 906. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated".

SEC. 907. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal

payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

"(g) DEFINITIONS.—For the purposes of this section:

"(1) ENDOWMENT FUND.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) ENDOWMENT FUND CORPUS.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) ENDOWMENT FUND INCOME.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEAF-BLIND INDIVIDUALS.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 902), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 902(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

(c) DEAF-BLIND YOUTHS AND ADULTS.—

(1) Sections 202(4), 203(a) (as so redesignated by section 902(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

Subtitle B—Other Programs

SEC. 911. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1) of the Small Business Act (15 U.S.C. 644(c)(1)) is amended by striking "the Blind and Other Severely Handicapped" and inserting "People Who Are Blind or Severely Disabled".

SEC. 912. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who—

"(A) are involved in providing instruction to individuals who are deaf; and

"(B) are not certified as teachers of such individuals,

to meet the communications needs of such individuals.".

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and on whether the substitution of the term "emotional and behavioral disorders" would be appropriate, or whether some other term should be used.

(3) DEFINITION.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".

(4) REPORT.—The Secretary shall, within 7 months after the end of the comment period, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

SEC. 913. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,".

SEC. 914. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking "handicapped persons" and inserting "persons with disabilities";

(2) by striking "the handicapped" and inserting "such persons";

(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and

(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

NOTICE OF HEARING

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, August 12, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 3095, Jena Band of Choctaws Louisiana Restoration Act; and for other purposes, to be followed immediately by an oversight hearing on Indian Trust Fund Management.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 11, 1992, to receive testimony on S. 3127, the Outer Continental Shelf Deep Water Production Incentives Act.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 12, 1992, at 10 a.m. to hold a hearing on the reauthorization of the Office of Justice Programs.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Tuesday, August 11, 1992, at 10 a.m. to conduct a hearing on the consolidation of the professional liability section of the RTC Legal Division.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Tuesday, August 11, 1992, at 9:30 a.m. in room 325 of the Russell Senate Office Building for hearings to examine U.S. Government and other efforts on behalf of the POW/MIA's in Southeast Asia.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, August 11, 1992, to hold a hearing on corruption in professional boxing.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 11, 1992, immediately following the conclusion of the 10 a.m. open session, in executive session, to discuss possible additional hearings and witnesses on Bosnia.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 11, 1992, at 10:00 a.m., in open session, to receive testimony on the situation in Bosnia and appropriate United States and Western responses.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., August 11, 1992, to receive testimony on S. 2505, to amend the Land and Water Conservation Fund Act of 1965 to provide for the establishment of the America the Beautiful Passport to facilitate access to certain federally administered lands and waters, and enhance the recreation and visitor facilities thereon, to authorize the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes; S. 2723, and H.R. 4999, to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; S. 3100, to authorize and direct the Secretary of the Interior to convey certain lands in Cameron Parish, LA, and for other purposes; and H.R. 4276, to amend the Historic Sites, Buildings, and Antiquities Act to place certain limits on appropriations for projects not specifically authorized by law, and for other purposes.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, August 11, 1992, at 2 p.m., to hold a hearing on reauthorization of the independent counsel law.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 11, 1992, at 2:30 p.m. to hold a hearing on the nomination of Dennis Jacobs to be U.S. circuit judge for the second circuit, Anita B. Brody to be U.S. district judge for the Eastern District of Pennsylvania, C. Leroy Hansen to be U.S. district judge for the District of New Mexico, Nathaniel M. Gorton to be U.S. district judge for the District of Massachusetts, John Phil Gilbert to be U.S. district judge for the Southern District of Illinois.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 11, 1992, at 10 a.m. on pending committee business.

Agenda:

1. S. 2642, Aviation Noise Improvement and Capacity Act of 1992 (Sam Whitehorn, Carol Carmody);
2. H.R. 5465, Aviation Insurance Act (Carol Carmody, Sam Whitehorn);
3. S. 2297, Land Remote Sensing Policy Act of 1992 (Steve Palmer, Mike Nelson);
4. S. 3150, Federal Trade Commission Act Amendments of 1992 (Moses Boyd, Claudia Simons)
5. S. 3096, Bicycle Helmet Promotion Act (Moses Boyd, Claudia Simons)
6. H.R. 1297, Clean Vessel Act of 1991 (Mike Nussman, Penny Dalton)
7. S. 1898, Marine Mammal Health and Stranding Response Act (Penny Dalton, Mike Nussman)
8. Nomination of Jose Antonio Villamil, of Florida, to be Under Secretary of Commerce for Economic Affairs (Loretta Dunn, Becky Kojm); and
9. Nomination of Mary Jo Jacobi, of Mississippi, to be Assistant Secretary of Commerce for Congressional and Intergovernmental Affairs (Becky Kojm).

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

ADDITIONAL STATEMENTS

TROOPS IN THE BALTICS

• Mr. SIMON. Mr. President, one of the things that still disturbs many of us is the continued presence of Russian troops in the Baltic nations.

Recently, the New York Times ran an article titled "Why Are Russians Still Here? the Free Baltics Ask." It is written by Celestine Bohlen. Whenever I see her byline, I wonder whether she is related to former Ambassador "Chip" Bohlen. I don't know the answer to that.

But the excellent story outlines why there are serious concerns.

The new Russian Government could create a great deal of goodwill for itself if it were to remove those troops as expeditiously as possible.

I recognize the delicacy of the situation that President Yeltsin faces. He does not want to offend the military too much. But I would hope that gradually the Russians could join everyone in recognizing that the presence of these troops is not desirable.

And I would say to the Russians that we understand when troops are not welcome. The situation in the Philippines was dramatically different. But the people of the Philippines expressed a desire for the United States military to leave bases there, and we have slowly complied with the wishes of the people of the Philippines. We were somewhat reluctant to do it, as the Russians are in the Baltic countries, but we are doing it, and we're better off for doing it; and the Russians will be better off once they do it, too.

I'm taking the liberty of sending a copy of this article, as well as my statement, to the Russian Ambassador.

I ask to insert the article into the RECORD at this point.

The article follows:

WHY ARE RUSSIANS STILL HERE? THE FREE BALTICS ASK

(By Celestine Bohlen)

TALLINN, ESTONIA.—Russia's slow and uncertain withdrawal of its troops from the three Baltic states is adding new poison to a relationship already polluted by unresolved legacies of Soviet rule.

A recent shooting outside a Russian navy depot here, where Russian paratroopers moved in to regain control of a building seized hours before by Estonian troops, has underscored fears that the tensions could veer out of control and lead to even more dangerous incidents.

But for the Baltic governments, preparing to celebrate their first year of independence from the old Soviet Union, the greatest concern is that Russia, which ruled this region in czarist times, is not ready to relinquish its imperial ambitions.

[Meeting on Thursday in Moscow with the foreign ministers of Estonia, Latvia and Lithuania, the Russian Foreign Minister, Andrei V. Kozyrev, proposed 1994 as the deadline for withdrawal, if the Baltic states make concessions. These include a renunciation of claims on land lost to Russia after the republics' annexation by the Soviet Union in 1940 and an end to demands for compensation for damages done by the Soviet Army during its 50-year occupation.

[According to the news agency Interfax, Mr. Kozyrev also said Russia would insist that its troops in the Baltics, now estimated at 130,000, be granted legal status until their withdrawal, and that laws "infringing on the political and economic rights of ethnic Russians" be amended. Russia's demands promise a new round of tough negotiations.]

FIREFIGHT ON MARYA STREET

Here in Estonia, the smallest of the three Baltic states, anxieties about the Russian military presence increased in July when Russian paratroopers opened fire in a street in Tallinn, firing off 985 machine-gun rounds as they took over a navy vehicle depot that had been seized by the Estonian Defense Forces. Two Russians were slightly wounded.

Many details about the shooting on Marya Street are still unclear, including who on each side gave approval for troops to be moved in.

The Government at first said the Estonian Defense Forces had been dispatched without authorization. But Jaan Manitski, the Foreign Minister, argued vehemently that on all matters concerning the continuing presence of Russian troops, right is always on Estonia's side.

"WHO IS TO BLAME"

"As long as there are tens of thousands of military personnel on our soil who don't follow our laws and who don't honor international law, then the details are not important," he said in an interview. "The basic issue is who is to blame, and the Estonian side does not feel it is."

Mr. Manitski, who spent almost all of his life in exile and returned to Estonia only after it regained its independence, still smarts from the Russian military's refusal to grant him permission to visit Paldiski, the site of a submarine base. "But it is not just a submarine base, it is an Estonian town, where Estonians live, and the Estonian Government has no access," he said.

"Five percent of Estonian territory is still under Russian control," he said. "There is an island in Tallinn harbor that is entirely occupied. We even have a foreign military unit stationed 300 meters from our Parliament."

The unresolved status of the troops has worsened another sore point in Estonia and Latvia, where sizable Russian minorities—more than 30 percent of Estonia's 1.6 million residents and Latvia's 2.7 million—have been made stateless by strict citizenship laws.

Last month, the Russian Parliament passed a resolution threatening economic sanctions against Estonia over its treatment of ethnic Russians, which Moscow saw as a violation of democratic principles. In Tallinn, the vote was taken as a sign of rising Russian nationalism, which, given the Estonians' history, many here fear is only a step away from Russian imperialism.

Estonia is also pressing its claim for the return of territories that were handed over to the Russian federation during Soviet rule. "We have no territorial claim on Russia," Mr. Manitski said. "We only want recognition of the legal borders" established between Russia and Estonia in 1920, when Estonia was independent.

Withdrawal of Russian troops has topped the agenda at talks between Russia and all three Baltic states. But according to both Estonians and Western diplomats, Russia has been slow to start negotiating in earnest. "We are increasingly convinced that the Russians do not want to get out of the Baltics," said one Western diplomat.

THE SLOW WITHDRAWAL

Last May, Russia's defense minister, Gen. Pavel Grachev, said the Baltic states were "unfair" in their call for a rapid pullout. "We are not an occupying force," he said in a published interview. "We shall withdraw in stages on the basis of treaties, as we are doing with troops based in Germany and Poland." Russian officials have repeatedly cited the problems of finding new housing for returning soldiers.

In fact, Russia is withdrawing troops from Estonia, but on its own terms. A year ago, the number of troops was estimated at 50,000; today, the estimate ranges from 15,000 to 20,000.

In Lithuania, only a few thousand troops have been withdrawn, leaving about 30,000, according to official figures. The greatest concentration is in Latvia, where the total may be as high as 80,000.

In Estonia, a base for Backfire bombers near the university town of Tartu and a tactical-fighter base near Parnu have been evacuated, diplomats said. "All along the coast, where you used to come up to a fence guarded by Russian soldiers, you now see open gates, swinging on their hinges," one diplomat said.

KEEPING NEWCOMERS OUT

One reason for the drop in troop levels has been Estonia's successful effort to stop the influx of conscripts through strict visa regulations.

But according to Mr. Manitski, the Russians' departure has been almost as insulting as their presence. "They have left some bases but what we are sorry to see is their behavior when they leave," he said. "Everything has been stripped or destroyed. This is something we cannot understand."

Mr. Manitski suggested that such destruction was one reason why the Estonian Defense Forces occupied the vehicle depot on Marya Street. "We cannot allow foreign countries to destroy our property as they are about to leave," he said. "This was our property that they occupied 50 years ago."•

TRIBUTE TO RED McILVAINE

• Mr. BRYAN. Mr. President, it is my privilege to rise today to pay tribute to one of Nevada's most well-loved media personalities, and my personal friend, Red McIlvaine.

Red's legendary broadcasting career began while he was still in high school. At the age of 16, he was hired as an announcer for a New Jersey radio station. By the age of 17, he successfully auditioned for the famous band leader Horace Heidt, and became the youngest radio announcer on network radio. After touring the world for 6 years with the Heidt Orchestra, Red turned his attention to serving his country. He entered the military where he continued his career as an entertainer by appearing in shows with Air Force Special Services.

After serving with the Air Force, Red returned to radio. He became a top-rated deejay in Phoenix and then moved on to Los Angeles where he became one of America's leading radio personalities.

In 1966, Red came to Las Vegas where he has been brightening the lives of Nevada residents ever since with his keen wit and warm spirit. He was the morning man on KORK radio and became so popular he was given the host position on the successful Nevada television show "Today at Noon" on KVBC. Both his radio show and his television show were the highest rated programs in the history of Las Vegas broadcasting.

Red was also the TV news anchor on KTNV-TV in Las Vegas and served as the advertising and public relations director for the Frontier Hotel. He performed an invaluable service when he toured the country as an ambassador for Las Vegas, broadcasting his radio show in cities across America. He even found time to write a successful book entitled "Your Guide to Las Vegas." Most recently Red has written columns for the Las Vegas Sun.

Red has selflessly devoted himself to Nevada children's charities with the same commitment he puts into everything he does. He has served as emcee, telethon host, and press advocate for such worthy causes as the Children's Miracle Network, the March of Dimes, the Kidney Foundation, the Sunshine Bus Committee, the B'nai B'rith, and the Help Them Walk Again Foundation among others.

On Friday, August 21, 1992, Red's family, friends, and colleagues will gather at the Stardust Hotel in Las Vegas, to honor him. Red McIlvaine has enriched the lives of Nevadans for 25 years with his bright sense of humor and energetic personality. He is a well-loved man who has given freely of himself to the people of the community as a successful author, media personality, and humanitarian. He is a treasured friend whose good work has changed Nevada for the better and we are truly in his debt.•

TALENTED NAPERVILLE HIGH SCHOOL STUDENT

• Mr. SIMON. Mr. President, we have in our country a great many talented young people, who pay attention to issues and who really give me encouragement for the future.

Recently I saw a column written by Jennifer Chen for her high school newspaper, the North Star, in Naperville, IL. Jennifer is the daughter of Nancy Chen, who ably runs my Chicago office.

Those who read the CONGRESSIONAL RECORD may agree or disagree with what she has to say, written at the time of the Clarence Thomas hearings and before the Senate vote, but the fact that she shows an interest and writes clearly and sensitively about what is taking place should be a matter of encouragement to everyone.

We need more young people—as well as people of all ages—who pay attention to the issues and are sensitive to the problems of the rest of humanity.

I ask to insert into the RECORD the article written by Jennifer Chen.

The article follows:

STRIDES

(By Jennifer Chen)

This summer, witnessed an end of a judicial era as eighty-three year old Supreme Court Justice Thurgood Marshall resigned after twenty-three years of protecting and fighting for individual freedoms in the nation's highest court. Even before his Supreme Court days, he proved to be a brilliant litigator when he argued the landmark case Brown v. The Topeka Board Education before the Supreme Court and when he helped integrate Little Rock Central High School in 1957. As a champion of individual liberties, he was considered to be the architect of civil rights. Although we say farewell to Marshall, we are endowed with his contributions.

Replacing Justice Marshall is a difficult task. President Bush nominated a black conservative, Judge Clarence Thomas, to fill the vacant seat. So far, his nomination has evoked strong concerns from liberals and the African-American community. His nomination itself contradicts Bush's opposition of quotas because many believe that Bush nominated Thomas solely on the basis of his race. Thomas does not have the support of organizations like NAACP or that of 25 out of 26 black congressmen. Will Judge Thomas be able to fill Justice Marshall's shoes?

One of Clarence Thomas's contradictions is his belief in "black self help." Like Booker T. Washington, he believes that Africa-Americans should build strength in their own communities instead of relying on others. That's fair, but while he opposes affirmative action programs, he himself benefited from minority-aid programs throughout his life. And now he wants to deny others what he enjoyed? As the chairman of the Equal Employment Opportunity Commission, he failed to remedy the civil rights violations as his predecessors had, and also let thousands of age discrimination cases lapse.

Will Clarence Thomas be a champion for the less fortunate as Justice Marshall was in the past quarter of a century? To make his "self help" point in a speech in 1980, Thomas unashamedly used his sister as an example of a welfare dependent person. Thomas's sister, Emma Mae Martin, was the opposite of "dependent." She remained with her mother, while her brother was sent off to live with his grandfather so he could have a better education. She graduated from high school, and balanced two minimum wage jobs while her brother was attending Yale law school. She was deserted by her own husband and had to stop working to care for an elderly aunt. The story of Emma Mae Martin isn't one of a woman who did not utilize Judge Thomas's "self help" method; it's a story about hard work. It's ironic how Thomas, given all of the advantages his sister lacked, did not use his success to help her. (His sister not holding any grudges, faithfully sat behind him during his confirmation hearings before the Senate Judiciary Committee.)

The Supreme Court now, already dominated by conservatives may overturn Roe v. Wade, the landmark case which gave woman the right to choose abortion. As women's reproductive and privacy rights may again be challenged in the Supreme Court, Clarence Thomas' view on abortion is a great concern to women's groups.

The American Bar Association gave Clarence Thomas a "qualified" rating, a very marginal approval. Past Supreme Court Nominees who were confirmed have all received "well qualified" ratings. Thomas's judicial experience is also minimal. He served in the U.S. Circuit Court of Appeals in Washington D.C. for less than two years. Clarence Thomas is only 43 years old. Justice Marshall retired at the age of 83. We can logically expect Thomas to serve on the Supreme Court for forty years. Are we ready for a Justice Clarence Thomas?•

UNFORTUNATE PLIGHT OF HAITIAN PEOPLE

• Mr. BRADLEY. Mr. President, I ask unanimous consent that two letters authored by Mr. Robert R. Klein, professor of public administration at Rutgers University, be printed in the RECORD to emphasize the complex nature of the state of affairs in Haiti and the unfortunate plight that has befallen the Haitian people.

The letter follows:

[From the Star-Ledger, Apr. 17, 1992]

THE U.S. OWES HAITI HELP NOT EMBARGO

DEAR EDITOR:

With the controversy raging about forcibly sending Haitian exiles back to their country ruled by a repressive military junta that overthrew a democratically elected government, Americans should keep in mind a history that links the United States with Haiti:

Haiti and the U.S. were the first two nations in our hemisphere to attain independence from foreign domination.

Haitian military men under French command fought for the U.S. in the American Revolution.

U.S. Marines occupied Haiti for almost 20 years, 1915–1934, as the State Department wrote and rewrote Haitian constitutions and made and unmade Haitian presidents—all in Washington, D.C.

For 30 years U.S. presidents, with the exception of John F. Kennedy and Jimmy Carter, looked the other way as Francois (Papa Doc) Duvalier and his son repressed, terrorized and murdered thousands of political opponents.

In December 1990, millions of ordinary Haitians voted overwhelmingly for a democratic president and later for a legislature at the public urging and with the financial underwriting of the U.S. government through the Organization of American States and the U.N. This writer was an official observer for the Organization of American States.

Now, doesn't the United States owe Haitians at least temporary refuge from a military gang that overthrew our election? Don't the American people—who have given millions in foreign aid to Haiti over the years—still now owe Haiti something for the 2,000 Haitian resisters who were killed opposing the Marine occupation?

Does not our great nation owe Haiti more than an embargo that is devastating the Haitian economy and punishing not the Haitian colonels and elite, but the poorest of the poor in city and rural areas?

Doesn't the U.S. owe Haiti something other than letting the kind, gentle, artistic, pro-American Haitian people hang out to dry, just as we allowed the Kurds and Shities to be crushed because we did not finish the job against Saddam Hussein? Does the United States not owe its Haitian friends liberation?

ROBERT R. KLEIN.

[From the Star-Ledger, June 13, 1992]

BUSH IS DENOUNCED AS HEARTLESS ON HAITI

DEAR EDITOR: When George Bush ordered that persecuted Haitians fleeing a brutal military dictatorship be forced back to Haiti, it was one of the most cruel, hypocritical and cynical acts of a heartless administration.

This one act is redolent of U.S. and western countries in the 1930s which refused to give temporary refuge to hundreds of thousands of persecuted Jews who were shipped back to Hitler's Nazi death camps.

In the past 30 years the United States has accepted refugees from Cuba, Salvador, Guatemala, Vietnam, the Soviet Union, Afghanistan, Cambodia, Lebanon and Kuwait among others. Have Americans forgotten that from 1840 to 1921 our government welcomed 35 million immigrants from almost every country in the world who, like the Haitians, were fleeing political and economic persecution? My own parents fled both Czarist anti-Semitic pogroms and Communist terror arriving in the United States in 1922. What would have become of me and my immigrant parents had George Bush been President in 1922? Bodies for the Nazi death camps or the Soviet Gulag Archipelago! Instead, I was born an American, attended three universities, became a United States Foreign Service Reserve Officer, served a governor and President of the United States—and this as the first generation son of immigrants who spoke broken English until the day they died!

What Americans must understand is that we owe Haiti special debts that we can never repay even with millions in foreign aid. Here are the historical facts from one who lived and worked in Haiti:

Haitian troops under French command fought the British at the battle of Savannah blockading English ships in what George Washington called one of the decisive battles of the American Revolution.

In 1915 U.S. Marines invaded and occupied Haiti for 19 years killing 2,000 Haitian resisters, one of whom was Charlemagne Peralte, a Haitian national hero. The Marines left behind many excellent public works as well as a legacy of intimidation and segregation. Yet Haitians never hated Americans; they admired and trusted our democracy—until George Bush decided that Haitians are not human beings.

During World War II Haiti declared war against Nazi Germany at the urging of the United States. The U.S.A. was allowed to ex-

periment in Haiti with a plant substitute for rubber and ruined thousands of acres of Haiti's already poor land.

During 40 years of Cold War, Haitian representatives at the United Nations and the Organization of American States (OAS) supported every major American initiative against Communist expansionism.

During the 30-year Duvalier dynasty from 1957–86, the United States government covertly and openly supported the Duvalier dictatorship although the embassy in Port au Prince had a daily record of Duvalier's arrests, imprisonments, beatings, disappearances and murders. I was a Cultural and Public Affairs Officer in the American embassy and was privy to much of this information from 1957 to 1959. Of our presidents only John F. Kennedy and Jimmy Carter suspended aid to Haiti in protest against Duvalier's violations of human rights.

In early 1959 a fatuous and ignorant Republican administration dispatched a U.S. Marine mission to Port au Prince to "train" Duvalier's army. The mission wound up training the army and the repressive police, while Haitians viewed the Marines as symbols of official U.S. support for dictator Duvalier.

In the 1960s the American embassy called in American doctors from Guantanamo Naval Base to treat Duvalier's near fatal heart attack, misdiagnosed by Duvalier's own palace physician. The U.S. government saved dictator Duvalier's life! Duvalier's personal physician was head of the murderous Tons Tons Macoutes or secret police! So the Bush reward for Haiti is continued suspension of foreign economic aid and an Executive Order declaring that fleeing Haitian refugees will be sent back to the very military gang we have denounced, condemned and embargoed! Is this being done to Haitians because they are poor or is it because they are black?

We must compel the OAS and the United Nations to establish multiple refugee camps for Haitians throughout Latin America identical to those in the Middle East for Palestinian refugees. And we must recruit an OAS military force ready to challenge the Haitian military junta. Such public recruitment would send Haitian military leaders into planes en route to Miami or Paris without one shot being fired. In 200 years the Haitian Army has never fought or repelled a substantial foreign invader. It's only task has been to suppress and murder innocent Haitians and kick presidents out of power.

Our problem is not Haiti: It is George Bush. President Bush suffers from Politicus Interruptis: He sends us to fight Saddam Hussein but hesitates to deliver the coup de grace! He denounces the Haitian military coup, but imposes an embargo that starves the poor Haitian who came out in the millions at U.S. urging to vote for a president.

I ask George Bush: When was the last time an embargo brought down an oppressive regime? The 30-year embargo against Castro? The embargo against Saddam Hussein? The time for embargoes is over. What the United States owes Haiti is liberation from a corrupt, repressive and illegal dictatorship by whatever means available!

ROBERT R. KLEIN.

TRENTON.●

GENERATION TO GENERATION AWARDEE

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a truly extraordinary person, Ms. Roberta Peters, on the occasion of the B'nai B'rith International Dor L'Dor Awards. On Monday, September 7, B'nai B'rith will present its highest award to Ms. Roberta Peters of the Metropolitan Opera for her multifarious contributions to the arts.

Ms. Peters has enchanted audiences for more than 40 years with her incandescent vocal radiance. Her beautiful voice, great showmanship, and winning charm have continued to captivate a worldwide public since her debut as Zerlina in Mozart's "Don Giovanni." She immediately became one of the Metropolitan's most prized sopranos.

Roberta Peters has maintained a tremendous schedule of concerts recitals and personal appearances throughout her career, singing an average of 40 engagements each season. She has performed with the world's major orchestras, on its major recital stages and at such celebrated summer festivals as the Salzburg Festival, Ravinia, the Hollywood Bowl, and Robin Hood Dell.

Ms. Peters was born in New York City and spent the whole of her teen years studying voice in order to make singing her career. At the tender age of 19, Roberta Peters was signed by the Metropolitan Opera and has performed well over 500 performances since then.

Best known for her coloratura heroines of grand opera, Ms. Peters is also acclaimed for heroines in other styles. She is also active in the fields of operetta and musical comedy.

Although opera is the center of Ms. Peters artistic life, it certainly isn't the whole of her life. She has devoted herself to social causes, such as the National Cystic Fibrosis Foundation, for which she served as National Chairman for a number of years, to Israel Bonds, and most recently to appearances and concerts benefiting AIDS research. She has taken an active part in efforts by Congress to aid in Government funding for the arts, and serves on boards of the Metropolitan Opera Guild and the Carnegie Hall. In 1991, she was appointed by President Bush to the National Council on the Arts, a post to which she has been confirmed by the Senate for a term that extends through 1996.

For the great lady that she is, and all that she has given to the world, it is only right that she is being honored with an award that is aptly named the Generation to Generation Award. Roberta Peters, I congratulate you for this great honor and wish to thank you for your many contributions to the great State of New York, indeed the world. I wish you many more successes in all of your future endeavors.●

THE 80TH BIRTHDAY RECOGNITION OF MS. MARY BURKE

● Mr. BINGAMAN. Mr. President, I rise today to express my very best wishes to Ms. Mary Burke as she celebrates her 80th birthday. Mary reigns as one of New Mexico's most esteemed citizens, a woman who dedicated her life to education and community service.

Mary was born on August 18, 1912, in Santa Rosa, NM. It was in Santa Rosa that she received her eighth grade graduation certificate signed by her mother, who served as the superintendent of schools. After finishing her high school education in Silver City, Mary entered the University of New Mexico. However, her pursuit of a higher education was abbreviated, cut short by the Depression. Forced to leave the university, Mary received a teaching certificate and taught school in Gallup. But when she married in the mid-1930's, Mary was compelled to leave her job—the school district would not allow married women to serve as teachers. It was not until the beginning of World War II, when the men in the community were called to serve their country, that Mary was able to again pursue her life's dedication. In 1951 she began work with the Albuquerque Public School District, remaining there until her retirement in 1976.

Dedicated to her own educational pursuits, Mary was determined to complete her college degree. During summer breaks from teaching, with four children in tow, Mary would spend her vacation months in Colorado, eventually receiving a bachelors degree in education in 1950 from the University of Denver. Eight years later, she received a masters degree in education from the University of New Mexico. Mary graduated in the same class as one of her daughters, who received her bachelors degree on the same day.

Mr. President, the New Mexican Democratic Party has also been a beneficiary of Mary Burke's talent and enthusiasm. An active party participant, Mary served as a New Mexico delegate to the 1976 Democratic National Convention. She still, today, fondly recalls the convention at which the party nominated Jimmy Carter as their presidential candidate. Never a year went by when Mary did not serve the party in some way. Mary volunteered her time and energy to me in both my campaigns for the U.S. Senate. No volunteer worked harder than Mary did on my behalf.

Today, Mary remains an extraordinary community participant. She serves on the Keep Albuquerque Beautiful Committee. Between her community tasks and her 13 grandchildren, Mary maintains an active, productive life. I am happy to stand before you today to recognize but a few of Mary's accomplishments over the past 80 years, and on behalf of all New Mexicans to wish her many happy years to come.●

TO COMMEND TRULY HUMANITARIAN WORK

• Mr. D'AMATO. Mr. President, I rise today on behalf of some of my constituents who do some pretty amazing work in New York, the Metropolitan Jewish Geriatric Center. On September 10 they will be celebrating their 85th anniversary. This monumental milestones offers a time to reflect on the multifarious achievements of the past, and a time to look to the future with a renewed sense of purpose. Their future will include playing a major role in assuring the highest standards of care for a burgeoning segment of the population.

From its beginning in 1907, a commitment to provide the quality of care for the aged has been the hallmark of Metropolitan Jewish Geriatric Center [MJGC] in Brooklyn, NY.

Like the founders of what was then the Brooklyn Hebrew Home and Hospital for the Aged, those who guide Metropolitan's destiny today give expression to the principle that the elderly should enjoy their later years in a productive, stimulating, and compassionate environment which affirms the right to receive care with dignity, respect and love.

Through its residential and extensive outreach programs and its affiliated services, MJGC is already setting a standard for high quality care for the aging. Perhaps the most vivid example of this can be found in the Shorefront Jewish Geriatric Center in Coney Island where considerable emphasis is placed on the care and treatment of patients with Alzheimer's disease.

The September 10 celebration also will pay a well-deserved tribute to Eli S. Feldman, MJGC's executive vice president and chief executive officer.

During his 25-year career with MJGC, Mr. Feldman has been the guiding force behind the introduction of a number of pace-setting programs and services that have been emulated by geriatric care facilities throughout the Nation. Especially noteworthy are those that serve older adults living at home, programs that are at once cost-effective yet meet the medical and related needs of the elderly.

Mr. Feldman and all the officers and board of directors of MJGC are to be commended for performing truly humanitarian work. They represent the best of New York and I wish to salute them.•

TROJAN NUCLEAR POWERPLANT

• Mr. HATFIELD. Mr. President, yesterday the Portland General Electric Co. [PGE] announced that it would close the Trojan Nuclear Powerplant in 1996. This is a significant event for Oregon and the Nation, and I fully support PGE's management and board of directors' decision to close Oregon's only commercial nuclear powerplant.

Trojan is located in Rainier, OR, 42 miles north of Portland on the Columbia River. The plant generates 1,100 megawatts of electricity and employs over 1,300 people. It comprises about 25 percent of PGE's total energy supply, and between 10 and 15 percent of all the electricity consumed in Oregon. In other words, Mr. President, regardless of whether you are an opponent or a supporter of nuclear power, this facility has been an important component of the Pacific Northwest's energy supply for many years.

While I applaud the company's decision to phase-out the operation of Trojan over the next 4 years, I also recognize that it will take several years to plan and build the new generating resources necessary to replace Trojan. To complicate the picture, the Pacific Northwest has only recently moved out of a period of energy surplus and now finds itself in the position of needing to increase its electricity supply by at least 2,300 megawatts by the turn of the century.

Given this situation, there is no doubt in my mind that PGE has made the wisest possible decision. The company has determined that phasing out Trojan is the most cost effective alternative for its customers, has taken into account the public's skepticism of the long-term safety of the facility, and has allowed itself ample time to build new generating facilities. The phase-out period also will provide adequate time for relocating and retraining the Trojan work force.

Mr. President, the Trojan plant has been the subject of considerable controversy during its 16 years of operation. There have been concerns relating to the plant's ability to withstand earthquakes, controversies and lawsuits over construction flaws, numerous criticisms by the Nuclear Regulatory Commission concerning safety procedures, and a string of State ballot initiatives seeking immediate closure of the plant until a permanent commercial waste repository is in operation.

Perhaps the most serious problem for the facility occurred last June when, during a period of routine maintenance, hairline cracks were found in 3,000 tubes in Trojan's four steam generators, posing a threat of radioactive water leaks. The plant was shutdown for nearly a year while the faulty tubes were repaired or plugged. The reactor was finally restarted on February 29. The plant has operated without a hitch for the past 5 months, and in fact, has earned its highest marks ever from the NRC during this time. PGE's management recognized, however, that the four steam generators would have to be replaced eventually if the plant was to be operated throughout the remainder of its existing license period, which ends in 2011. The company estimated the cost of replacing the steam generators to be approximately $200 million.

With this huge expenditure staring it in the face, PGE set out on a least cost planning process 10 months ago to identify the most cost effective course of action. The company considered three alternatives: First, immediate closure of the facility; second, phase-out of the plant over 4 to 6 years; and third, replacement of the four steam generators and operate the plant for the remainder of its useful life.

Yesterday's action was a sound business decision, and was the result of an intense least cost planning process. The analyses associated with the process showed the 4-year phaseout of the plant to be more cost effective than either immediate termination or repairing and operating the plant until the end of its useful life in 2011. Not only is this a sound business strategy, it also is good public policy.

Mr. President, the management and board of directors of PGE have taken a bold and visionary step with this decision. This action will usher in a new era of electric energy resources in Oregon which will be more closely aligned with the State's environmental values. I expect this action to accelerate the region's investments in energy conservation and renewable energy resources. I strongly support this decision, and hope my fellow Oregonians will see the wisdom in it.•

CONCERNING THE NOMINATION OF ED CARNES

• Mr. SHELBY. Mr. President, last Friday the Senate began the debate on the nomination of Ed Carnes to be a judge on the 11th Circuit Court of Appeals. I totally support this nomination and believe that if all Senators closely examine Mr. Carnes' record, they will agree that he is qualified for this important judicial position.

In order to give my colleagues an opportunity to study Mr. Carnes' record, I ask that a number of articles and letters concerning Ed Carnes be printed in the RECORD.

The material follows:

[From the Atlanta Journal/the Atlanta Constitution, Feb. 13, 1992]

ED CARNES A GOOD CHOICE FOR 11TH CIRCUIT BENCH

Because I know Ed Carnes, I would like to respond to the recent Constitution editorial opposing his nomination to the 11th Circuit Court of Appeals.

I doubt if anyone could ever fill Judge Frank Johnson's shoes, but in fairness, his public remarks about Ed's nomination should be noted.

In a Birmingham News article, Judge Johnson praised the quality of Ed's work in the 11th Circuit and said that it made him a "very good" choice for the court.

As the executive director of the Southern Poverty Law Center, I have defended many defendants facing the death penalty and have litigated against Ed often. Although I am a foe of the death penalty, I know that Ed is a person of tremendous integrity and talent.

He has consistently refused to knuckle under to political pressure from state pros-

ecutors bent on upholding death sentences at any cost. As an assistant attorney general, he has argued against the prosecution position taken by district attorneys in capital cases.

Ed also has promptly disclosed exculpatory material he has found hidden in the files of local prosecutors, resulting in convicted murderers being given new trials. He has embarrassed local prosecutors and incurred their wrath in an effort to ensure fair trials.

He has also stood up to bias on the bench. On two occasions, he has successfully prosecuted misconduct charges against state judges who engaged in racist behavior. In both instances, the judges were removed from office.

I can understand why those who are opposed to the death penalty could have a visceral reaction to his nomination and might have a motive for misrepresenting his record.

All I can say is that he is a person of integrity, competence and outstanding character. He will make a fine judge.

MORRIS DEES.

MONTGOMERY, AL.

[From the Mobile Press, May 4, 1992]

CARNES PUBLICLY AND PRIVATELY OPPOSED RACIAL DISCRIMINATION

(EDITOR'S NOTE: The following column is a response to a syndicated column by Colman McCarthy, which appeared April 27 in the afternoon Press.)

(By Joan Byers)

The recent column by Colman McCarthy arguing against confirmation of Edward Carnes' nomination to the U.S. Court of Appeals typifies the opposition to this nomination.

Those opposing Carnes are using his nominations as a forum to re-argue an issue they have lost in every other forum—the issue of capital punishment. Every witness who appeared to testify against Carnes at his confirmation hearing admitted strong opposition to capital punishment.

Those opposing this nomination have a problem. About three-fourths of the American people believe capital punishment is a necessary weapon in society's arsenal against crime, as do at least 73 members of the Senate, according to the last roll call vote on the issue.

For the opponents of this nomination to admit their true motivations would be to concede the battle. So, they cloak their opposition in terms of race and fairness, all the while being unfair to the nominee. McCarthy's column typifies that tactic.

Apparently assuming that Carnes is responsible for every prosecutorial, jury and judicial decision in every Alabama capital case, McCarthy proceeds to argue that in Alabama, and in other states, capital punishment is administered in a racially discriminatory way.

As with so many critics of capital punishment, McCarthy has his facts wrong. The percentage of blacks who have been executed in Alabama in the modern era matches the percentage of blacks who have been arrested for homicide.

A statistical study done in the 1980s (by an opponent of capital punishment) found that 53 percent of Alabama capital defendants tried for killing a white were sentenced to death, while 68 percent of capital defendants tried for killing a black received the death penalty.

Specific cases further disprove McCarthy's thesis. One Alabama capital case has gone to execution in which the defendant was under two death sentences—one in a white victim case and the other in a black victim case. That defendant was executed for murdering the black victim, not the white victim.

The one execution carried out in Alabama involving both white and black co-defendants also indicates an absence of racial discrimination. A white man hired two black hit men to murder his wife. The white man was executed, while his two black co-defendants received prison sentences.

The argument that capital punishment should be abolished to guard against racial discrimination is one with which many black survivors of capital murder victims disagree.

A young black woman whose mother was brutally raped, sodomized and murdered by a convict out on a work-release pass had only one complaint when the murderer was executed in Alabama. Her complaint was that it had taken almost 11 years to have that sentence carried out.

A black woman whose 11-year-old child was blown to bits by an anti-personnel bomb placed on her porch by a man with a grudge against the family had a similar complaint. Before that murderer was finally executed in Alabama, the mother of the victim said, "So long as he is alive there's a chance he may get out and get the rest of us. I can't rest until he gets the chair." There is a wide gulf between people who live issues and those, like McCarthy, who only write about them.

It is absurd for McCarthy to argue against Carnes because the Alabama statute does not contain a provision prohibiting racial discrimination in jury selection. No capital punishment statute in the country contains such a provision.

None is necessary, because the Constitution prohibits such discrimination. Carnes is responsible for writing into law a provision requiring the Alabama appellate courts to review every death sentence to insure that it is not tainted by "passion, prejudice or other arbitrary factor."

Attacking Carnes' nomination under guise of racial discrimination is particularly unfair because of his civil rights record. Morris Dees is the foremost civil rights lawyer in the South and one of the strongest supporters of Carnes' nomination.

Dees has accurately described Carnes' record against racial discrimination as "outstanding." Carnes worked to ban the importation of South African coal mined by indentured labor. He has represented black public officials sued by whites. Carnes prosecuted two judges on judicial disciplinary charge for engaging in racist behavior. He got both of them removed from the bench.

Carnes also successfully handled the legal effort to have the murder conviction upheld in the 16th Street Baptist Church bombing case, where the Ku Klux Klan murdered four young black girls who were attending Sunday school.

He has also been the leader in the effort to prevent white defendants from striking blacks off juries for racially discriminatory reasons. In one case, involving the Ku Klux Klan murder and lynching of a young black man, Carnes' efforts on that issue in the Supreme Court were joined by the Southern Christian Leadership Conference and the Southern Poverty Law Center.

As Dees has pointed out, Carnes' public record against racial discrimination parallels his private conduct. He attends an integrated church. Unlike so many nominees, he has never belonged to a country club or other organization that discriminates based on race or sex.

If those opposing this nomination were truly concerned with civil rights, instead of pursing their anti-capital punishment agenda, they would be among Carnes' strongest supporters.

They would join Judge Frank Johnson Jr. who has publicly stated that Carnes is a "very good" choice for the position. But then, Johnson is known for his principled judgment stand forthrightness, not for duplicity and unfairness.

[From the National Law Journal, July 27, 1992]

ED CARNES IS A FOE OF RACIAL DISCRIMINATION

In criticizing Ed Carnes, who was nominated to the 11th U.S. Court of Appeals because of Judge Frank Johnson's retirement, Jack Bass insults the judge by suggesting that his published comments favoring Carnes were based upon ignorance. ("A Worthy Successor He is Not," NLJ, July 20.) The true explanation for Judge Johnson's position is his fairness.

Mr. Carnes has been an ardent foe of racial discrimination both in and out of the courtroom. He worked to bar the importation of South African coal. He personally prosecuted disciplinary charges against two racist judges and had them removed from the bench. As chief counsel for the state on appeal, he preserved the conviction of the Klansman who murdered four young black girls in the notorious 16th Street Baptist Church bombing case.

Mr. Carnes told the Judiciary Committee that racially discriminatory jury strikes were always unfair. And he has acted according to that belief. Long before the Batson decision. Carnes urged district attorneys not to discriminate against blacks in jury selection. He even advised the Alabama attorney general to move the trial of a black defendant to a venue where more black people would serve on the jury.

After the Batson decision. Mr. Carnes successfully pushed to have the ruling extended in Alabama to prevent white defendants from discriminating against black jurors. In published remarks three years ago, he explained that his position was not that the defense and prosecution should be "working at the same level, but that racial discrimination is wrong."

Mr. Carnes' professional stand against racial discrimination is reflected in his private life. Unlike so many nominees, he has never belonged to a racially exclusive club, and he attends an integrated church.

Mr. Carnes is not a Republican hack. He has served under four state attorneys general, all of whom were Democrats and all of whom wholeheartedly support his nomination. He has the strong support of both Alabama's Democratic senators. He also has the strong support of elected officials in Alabama who are black, including Supreme Court Justice Oscar Adams, Circuit Judge Charles Price and State Rep. Alvin Holmes, chairman of the Affirmative Action Committee of the Black Legislative Caucus.

Mr. Bass quotes Representative Holmes' glowing tribute to Judge Johnson during the ceremony naming the courthouse in the Judge's honor. What he fails to quote is Mr. Holmes' endorsement of Mr. Carnes. In a letter to the Judiciary Committee, Mr. Holmes stated: "I have known Mr. Carnes for many years and have known him to be fair and impartial toward all citizens without regard to race or color."

In my view, Mr. Holmes was right about both Judge Johnson and Ed Carnes. Ed is a

person of intelligence and character. He will be an excellent judge.

MORRIS DEES,
Executive Director,
Southern Poverty Law Center.

MONTGOMERY, AL.

[From the Fulton County Daily Report, Apr. 29, 1982]

RESPONSE TO BRENT NEWTON'S LOST HEROES

(By Morris Dees)

I have not tried to live my life to be one of Brent Newton's "heroes," but I was sorry to learn nevertheless that I've lost his admiration because of my support for Ed Carnes. Let me explain why Brent and I differ on the Carnes nomination.

Like Brent, I am an opponent of the death penalty. During my career, I have represented approximately 50 capital defendants. (I hope that Brent represents as many during his career once he gets out of law school.) I have also helped write capital case trial manuals and have lectured widely on representing defendants facing the death penalty.

Unlike Brent, I do not believe that support for capital punishment should be a litmus test for the bench. (Brent told an attorney recently that one's stance on capital punishment was a "pretty good litmus test" and expressed the view that the death penalty violates three provisions of the Constitution.) Although I believe that I have the courage of my convictions, I try not to let them lead me into thinking that everyone who disagrees with me is evil or immoral. I'm afraid that Brent has fallen prey to just this tendency.

Perhaps because he has no answer to it, Brent completely ignores the fact Judge Johnson supports Carnes. The Judge has publicly stated that Carnes is a "very good" choice for the bench. He pointed to the high quality of Carnes' work and noted that Carnes' background as a prosecutor would be an asset for the court. As I have emphasized before, anyone with walking-around sense should realize that Judge Johnson would have declined to comment were he not strongly in favor of Carnes.

Judge Johnson's public endorsement of Carnes must be baffling to Brent. If I am a "lost hero" because I support Carnes to replace Judge Johnson (Brent's Carnes as "absolutely principled.") A former United States Magistrate and law clerk to Judge Johnson who represented two of the nine defendants who have been executed in Alabama told the Senate Judiciary Committee that "[n]o opponent has been more straight-forward and more forthcoming" than Carnes.

These attorneys have been involved in litigation with Carnes. Brent has only read about him.

The charge that Carnes has tried to handicap his opponents by keeping their funding low is simply false. Carnes actually was single-handedly responsible for doubling the compensation available to appointed counsel in capital cases for out-of-court work through an Attorney General's opinion he wrote. He also drafted legislation to increase compensation for appointed counsel in capital cases at trial and in state collateral proceedings (the legislation did not pass), and he pushed through a provision that appropriated funds to pay litigation expenses for capital defendants in post-conviction proceedings. In explaining Carnes' role in encouraging judges to authorize more funds for indigent capital defense, the presiding criminal court judge in Alabama's largest circuit told the Judiciary Committee that "Carnes has preached for years [about the need] to treat indigent defendants as first class citizens."

Brent tries to portray Carnes as an opponent of increased funding by pointing to the following Carnes quote reported in USA Today: "If a guy gets effective representation, what does it matter whether the attorney got $10 per hour or $100 per hour?" What Brent chose not to point out was that the USA Today reporter noted in the same paragraph that Carnes stated that indigent capital case compensation was too low.

One need not be convinced that the death penalty in Alabama is race neutral to realize that Brent's portrayal of Carnes as a bigot is quite unfair. Carnes is a lawyer who has specialized in post-conviction work. He does not decide who to indict. (Dr. Bernard Bray's highly critical study of Alabama's death penalty suggests that race has an effect on prosecutors' decisions to pursue capital cases but not particularly on the outcome of capital cases that go to trial. Given the racial breakdown in crime statistics, the comparisons Brent makes between the racial composition of the State as a whole and the racial composition of those on death row and of those executed are virtually meaningless. Judge Johnson has voted to uphold death sentences in at least 12 cases in which defendants were eventually executed. The fact that 50 percent of these defendants were black when only 20 percent of the persons in the states covered by the Eleventh Circuit are black does not make Judge Johnson a racist.) Carnes also does not decide who to strike from juries. To maintain that Carnes endorses racism in jury selection when he raises "legal technicalities" to *Baston* claims is equivalent to arguing that a lawyer endorses crime when he secures the acquittal of a defendant on the basis of "legal technicalities." Like a defense lawyer, a government lawyer is entitled to "prosecute with earnestness and vigor" and to "strike hard blows." *Berger* v. *United States*, 295 U.S. 78, 88 (1935)

Because Brent describes me as "perhaps the best known Southern civil rights lawyer alive today," I'd like to take the opportunity to offer my opinion about Carnes' record on racial discrimination. Quite simply, I think that his record is outstanding. As a young attorney, he worked to ban the importation of coal from South Africa. Before it became fashionable to do so, he represented black public officials sued by whites. He succeeded in having two racist state court judges removed from the bench. With the Southern Christian Leadership Conference and the Southern Poverty Law Center, he worked to prevent white defendants from discriminating against blacks during the jury selection. As chief counsel for the State on appeal, he preserved the conviction of a Klansman responsible for killing four young black girls in the infamous bombing of the Sixteenth Street Baptist Church in Birmingham.

Carnes' stand against discrimination in the courtroom has been matched by his stand in the community. When he learned that a racially insensitive remark had appeared in the student newspaper at his daughter's school, he immediately wrote the principal and expressed his outrage in this way: "Racial discrimination is wrong. Racially hostile and denigrating comments are wrong. Publishing or condoning such comments is wrong."

Carnes' sentiments were not the product of a "confirmation conversion." Unlike many other nominees, Carnes has never been a member of an organization that discriminated on the basis of race or sex. He has long attended one of the few integrated churches in Montgomery.

Brent's inability to look beyond his own preconceptions about race and Carnes is reflected by his reading of Carnes' comments about the portrayal of Alan Dershowitz in "Reversal of Fortune." Dershowitz had represented two white men from Arizona in the famous *Tison* capital case. When the movie about Dershowitz was made, the facts of the case were changed to fit Hollywood stereotypes. The defendants became black, and the state became Alabama. Carnes criticized the film, perhaps too sarcastically, for misrepresenting the facts and pandering to negative racial stereotypes about blacks. The fact that Brent misunderstood Carnes' comment and believed the story in the film shows that Hollywood knows its audience well.

Brent's literalness also shows through in his reading of the following Carnes statement: "Under Alabama law you can't execute someone who is insane. You have to send him to an asylum, cure him up real good, then execute him." Anyone who knows Carnes would realize that he was condemning, in a mocking fashion, the law that would permit sending death row inmates for treatment in order to execute them. (Harvard grads like Carnes don't say things like "cure him up real good" except for effect.) Brent, on the other hand, claims that the statement shows that Carnes is "inhumane."

To add fuel to his charge that Carnes is a moral monster and to denigrate his courage in standing up to a district attorney who wanted to argue in favor of executing a 15 year old (the D.A. apparently took the position that the 5-4 Supreme Court decision prohibiting such executions would come out differently if the issue were raised again), Brent writes "that Carnes personally handled an appeal in which a fifteen-year old (with an I.Q. of 76) was sentenced to death" and cites *Potts* v. *State*, 426 So.2d 886 (Ala. Crim. App. 1982). The only problem with Brent's point is that the defendant in *Potts* was never sentenced to death. Brent apparently cited the case without reading it.

At bottom, Brent is simply incapable of giving Carnes credit for anything that he has ever done. Brent lives in a world of "heroes" and "demigods." Because Judge Johnson is Brent's idol, Carnes must be "everything Frank M. Johnson is not." Carnes' principled stands deserve no recognition, according to Brent, because Carnes was only doing his duty.

An attorney whose client received a new trial after Carnes turned over exculpatory evidence he had found hidden in a district attorney's file saw Carnes somewhat differently.

"Ed Carnes could have pretended to overlook the evidence he found in the district attorney's file. He had no reason to doubt the defendant's actual guilt. He could have justified it to himself, telling himself that the failure of this evidence to appear at trial was harmless error. By turning over the evidence he aroused considerable ire from the local district attorney. * * * If Ed had not confessed error in that case, there is no way that we possibly could have discovered the additional exculpatory evidence on our own. [The defendant] would not be alive today."

Of course, Carnes is a Republican, and I am a lifelong Democrat. If I were the President of the United States, I'd probably nominate someone else to the Eleventh Circuit—probably someone like United States Magistrate John Carroll, the former Legal Director of the Southern Poverty Law Center who

worked with me defending numerous capital defendants and argued against Carnes in the United States Supreme Court. But, if we allow capital punishment to be the "litmus test" that Brent believes it should be, then surely the tables will turn and lawyers like Jonn Carroll (lawyers who have tried to use "legal technicalities" to get cold-blooded killers off the hook) will never be nominated or confirmed. Because I am old enough to know what goes around comes around and because Carnes will be an excellent judge, I hope that he is confirmed.

APRIL 22, 1992.

Re nomination of Edward Carnes to the United States Court of Appeals for the Eleventh Circuit.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: We are the Attorneys General of the three states of the Eleventh Circuit, and we are writing to wholeheartedly urge the Senate to confirm the nomination of Edward Carnes to the United States Court of Appeals for the Eleventh Circuit.

As you know, the American Bar Association Standing Committee for the Judiciary unanimously rated him qualified for the position. Mr. Carnes is of the highest character, and he has a reputation for ethical propriety that is unsurpassed. Many attorneys who have litigated against him over the years have stated publicly that he has always been fair and straightforward with opposing counsel and with the courts. He has earned and enjoys a reputation as one of the finest attorneys in the Eleventh Circuit.

As the chief legal officers for our states, we are disturbed by the tactics being employed by those who are opposing confirmation of Mr. Carnes' nomination. While the opposition obviously springs from the capital punishment issue, the opponents are unfairly attacking Mr. Carnes because of the role he has had as an advocate for his client, the State of Alabama, in post-conviction review of convictions and sentences. It is the duty of state attorneys general and their assistants to advocate that convictions be sustained when there is any legally appropriate basis for doing so. All attorneys, including government attorneys, have a duty to represent their clients to the utmost of their abilities. It is only if that duty of advocacy is carried out that our criminal justice system, which relies upon a vigorous presentation of competing arguments by opposing advocates, can work.

It is preposterous for those opposing Mr. Carnes' nomination to suggest that rather than doing his duty as an advocate he should have taken it upon himself to decide the merits of each case or argument and acted accordingly. That is not the role of an attorney in our system, as you know. Any attorney who modifies his representation of a client based upon his personal feelings about how a case should come out is not carrying out his ethical duty to represent his client zealously within the law. If the position of those opposing this nomination is adopted, then no government attorney who has carried out the ethical duty of being an advocate can be confirmed to the federal bench.

We have also heard that Mr. Carnes' nomination is being opposed by some because he supported the version of federal habeas corpus reform that passed the Senate last year. Fifty-eight Senators voted for that measure, and each of us supported it. Mr. Carnes' views on habeas reform are certainly not outside the mainstream.

The Eleventh Circuit is the busiest federal appeals court in the nation. It has been two-and-a-half years since the Court had a full complement of active judges, and it is currently operating with only seventy-five percent of its judgeships filled. We fear that there may soon be serious delay in the decision of cases if the vacancies are not filled promptly. We would appreciate anything you and the Senate could do to expedite the confirmation process for all three pending appointments to the Eleventh Circuit.

JAMES H. EVANS,
Alabama Attorney General.
ROBERT A. BUTTERWORTH,
Florida Attorney General.
MICHAEL J. BOWERS,
Georgia Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 22, 1992.

Re nomination of Edward Carnes to Federal Appeals Court.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in response to allegations about the *Tomlin* case that are contained in a written statement of Stephen B. Bright in opposition to the nomination of Ed Carnes to the United States court of Appeals for the Eleventh Circuit.

Mr. Bright's allegations against Mr. Carnes are false. I know, because I am the one who did what he accuses Carnes of doing. Mr. Carnes did not do it, nor did he know I was doing it.

I am not now and never have been in Mr. Carnes' Capital Litigation Division. At the time of the events in question, I was in the Criminal Prosecution Division of the office. I was one of the two prosecutors who retried the *Tomlin* case in 1990. After the guilt stage and jury sentencing stage was over, I prepared two sentencing orders to submit to the judge—one for a life without parole sentence (which was the minimum penalty) and one for a death sentence. Because of his knowledge about capital punishment law, I asked Mr. Carnes to look over the two proposed orders I had written and make any suggestions or criticisms.

Later, after I had finished the final draft of the two proposed orders, I sent them with a cover letter dated March 26, 1990, to the trial judge in the case. In my letter, I informed the judge that I had not served a copy on opposing counsel. Mr. Carnes knew nothing about that. I later received a message from the judge to send a copy to opposing counsel, and did so. Opposing counsel had a copy of the two proposed orders I submitted at least a full week before the hearing in front of the judge.

I did not tell Mr. Carnes that I was not going to serve a copy of the proposed orders I was preparing on opposing counsel. He had no reason to believe I was not going to serve opposing counsel. I did not give him a copy of my March 26, 1990 letter to the trial judge.

I regret my mistake in not immediately serving opposing counsel with a copy of the proposed orders in the *Tomlin* case. It was my error entirely.

Sincerely,

J. RANDALL MCNEIL,
Assistant Alabama Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, July 6, 1984.

Re State v. Tomlin, No. CC 77-001396.

Hon. FERRILL D. MCRAE,
Judge, Circuit Court of Mobile County, Mobile County Courthouse, Mobile, AL.

DEAR JUDGE MCRAE: I hope you won't think it presumptuous of me, but, in the interest of minimizing the burden on the Court, I have drafted the attached proposed sentencing findings and order. Ed Carnes and Don Valeska have both collaborated with me in this. Nothing in this proposed order contradicts anything in your original sentencing order.

I realize that with the question of Tomlin's attorney somewhat up in the air, consideration of the contents of the sentence order is somewhat premature. However, this proposal, should you decide to use it, could provide a starting point for your own drafting.

Please let us know if we can be of any further assistance.

Respectfully,

JOSEPH G.L. MARSTON III,
Assistant Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 22, 1992.

Re allegations by Stephen Bright against Edward Carnes concerning the Tomlin case.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Stephen Bright is making some false accusations against Edward Carnes, whose nomination to the Eleventh Circuit Court of Appeals is pending. I know those accusations are false, because I have personal knowledge of the facts.

On page 5 of his April 1, 1992 written statements to your Committee, Mr. Bright discusses the first trial, appeal, and remand for further sentence proceedings in an Alabama capital case, that part of which I handled on direct appeal. He refers to "an assistant attorney general" who wrote a letter to Judge McRae on July 6, 1984. That assistant attorney general was me. The letter I wrote, a copy of which is attached hereto, clearly shows that I served a copy of the letter and the enclosed proposed draft order on Jim Lackey, a Mobile attorney for the defendant.

Mr. Bright points out that Mr. Lackey was not actually formally appointed to represent the defendant until after I served a copy of my July 6, 1984 letter and proposed order on him. That is true. That is why I said in the letter that the question of Tomlin's attorney was "somewhat' up in the air'." Nonetheless, at the time I sent the letter, I had talked with Mr. Lackey and I knew, as he did, that he was going to be appointed to represent the defendant. Rather than send the copy to the defense lawyers who had already withdrawn from the case, I sent it to the lawyer I believed (correctly) would be representing the defendant in connection with the documents I was filing. There is absolutely nothing wrong with that. Nothing was done ex parte.

As to Mr. Carnes' role, all he did was let me run my proposed order to him for his input as to its contents. I do not recall if I made any changes as a result of him looking at it. Anyway, Mr. Carnes did not have anything to do with whom I served my proposed order on.

I have always been in the Appeals Division, and I have never worked under Mr. Carnes' supervision.

Mr. Bright's accusations are utterly groundless.

Sincerely,

JOSEPH G.L. MARSTON, III,
Assistant Alabama Attorney, General.

CIRCUIT COURT.
THIRTEENTH JUDICIAL CIRCUIT,
Mobile, AL, February 27, 1992.

Re Ed Carnes nomination to the eleventh circuit court of appeals.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC

DEAR SENATOR BIDEN: It is my pleasure to write you regarding the nomination of Ed Carnes to the Eleventh Circuit Court of Appeals. Mr. Carnes is an excellent attorney with good character and a fine reputation. He should be confirmed to the Eleventh Circuit.

I have been a judge on the Circuit Court, which is Alabama's trial court of general jurisdiction, in one of Alabama's largest cities for over twenty years. I have had an opportunity to observe thousands of attorneys during that period of time, and I can and do say to you that no attorney before my court has ever shown greater knowledge of the criminal law than Mr. Carnes has.

His specialty is capital murder cases which, as you know, is a very complex area of the law. It is my opinion that he knows more about criminal law and procedure in general than any other attorney I have met. The federal courts could use someone with his depth of knowledge in the criminal law area.

He also has an excellent reputation for integrity and ethical behavior. The consensus of the criminal defense attorneys is that he is a tough opponent but always fair. I have heard many of them compliment him as an attorney and as a gentleman.

Mr. Carnes is knows to be a fierce foe of racial discrimination. In a case in my court, he argued passionately for an innovative holding that would have prohibited some white defendants, who were accused of violent crimes against a black man, from using their peremptory strikes against black jury veniremembers. Because I believe at that time the law did not deprive a white defendant of that right in the use of his peremptory challenges, I ruled against Mr. Carnes on that point. The Supreme Court of the United States has, within the past few months, changed the then existing law to the position advocated by Mr. Carnes. Even though I ruled against Mr. Carnes' position, I was very impressed with his argument and with the obvious feeling he had against racial discrimination in any form or context.

It is without hesitation that I highly recommend the confirmation of Ed Carnes for the Eleventh Circuit Court of Appeals. I am confident that if he is confirmed, he will not only bring credit upon himself in this position but also upon the Eleventh Circuit and you as the confirmation authority.

Very truly yours,

MICHAEL E. ZOGHBY,
Circuit Judge.

APRIL 16, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: We the undersigned attorneys in the Alabama Attorney General's Office are writing to express our support for Ed Carnes and to urge the confirmation of his nomination to the United States Court of Appeals for the Eleventh Circuit.

As African-Americans, we regret that there has been an attempt at racial polarization by a handful of people whose opposition to this nomination is motivated by their opposition to capital punishment. Some of us are strongly opposed to capital punishment. Some of us support it, and some of us have ambivalent feelings about it. But we all recognize that Ed Carnes is an excellent lawyer, he is fair, and he is opposed to racial discrimination.

We have heard that a few people are contending that Mr. Carnes has condoned racial discrimination because as an attorney assigned to advocate the State's position in post-conviction proceedings he has argued, where there is a legal basis for doing so, that a conviction should be affirmed even though the defendant raises a Batson claim on appeal. That contention is absurd, and it is offensive to those African-American attorneys who as advocates have argued the same positions Ed Carnes has.

The Code of Professional Responsibility requires that every attorney represents his client "zealously within the bounds of the law." It is the ethical duty of every government attorney to raise in a post-conviction proceeding any and all available arguments on behalf of sustaining a conviction. That duty is a necessary part of our adversary system. Some of us, as part of our duty as attorneys representing the State in post-conviction proceedings, have also argued that convictions should be upheld even where Batson claims are raised, if there is any legal basis for doing so. We are not condoning racism when we do that, nor is Mr. Carnes. To say that a government attorney who carries out his ethical duty to advocate in favor of sustaining convictions is condoning racism is like saying that criminal defense attorneys who advocate on behalf of their clients are condoning crime.

Far from supporting racial discrimination, Ed Carnes has a strong record of achievement in the area of minority rights. During his career, he has worked to ban the importation of South African coal into Alabama; he has defended black public officials who were sued by whites; he has personally prosecuted misconduct charges against two judges for racist conduct and got both of them removed from the bench; and on more than one occasion he has gone into court against white racists, including Ku Klux Klansman, who had committed violent crimes against African-American citizens.

We are all independent of the supervision of Mr. Carnes. We hold various political views. However, we know Ed Carnes. Based upon our knowledge of him and his record, we endorse his nomination and urge his confirmation.

Sincerely,

GERRILYN V. GRANT.
TORI ADAMS-BURKS.
ROBERT WARD.
JAMES PRUDE.
FRED BELL.
COURTNEY W. TARVER.

OFFICE OF DISTRICT ATTORNEY,
Tuscaloosa, AL, April 6, 1992.

Re nomination of Ed Carnes to the Eleventh Circuit Court of Appeals.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: For eleven years, I have been District Attorney of the Sixth Judicial Circuit of Alabama. Although I did not personally prosecute the Patricia Jackson capital murder case, an Assistant District Attorney, who is no longer a member of my office, did. I am personally familiar with the post-conviction events in the case and with Mr. Ed Carnes' role in them.

I have been furnished a copy of the written statement of Stephen Bright in opposition to Mr. Carnes' nomination, and I want to correct the grossly false impression that Mr. Bright is attempting to create concerning that case and Mr. Carnes' role in it.

First and foremost, Mr. Carnes did not make the decision to appeal the federal district court's order granting relief in the Jackson case. That was not his role in the case. I know, because I am the one who decided that that order should be appealed.

In Alabama, District Attorneys prosecute criminal cases, and the Alabama Attorney General's Office handles litigation at the appellate stage including any federal habeas corpus proceedings and appeals therefrom. There are dozens of Assistant Attorneys General. They do not decide which cases will be pursued on appeal and which ones will not be. That authority belongs in a strict sense to the Alabama Attorney General himself, but as a practical matter the decision is actually made by the District Attorney who will have to retry the case if an order setting aside the conviction is not appealed. During the entire eleven years I have been a District Attorney, the Attorney General's Office has never failed to appeal an order setting aside a conviction without my express consent. That has always been the policy of the Alabama Attorney General. It is not a policy of Mr. Carnes.

After the Federal District Court set aside the conviction and sentence in the Jackson case, I received a copy of the decision and order in that case. Although Mr. Carnes did not personally handle that capital case in the state collateral or Federal District Court stages, I talked to him about the appeal of the decision to the Eleventh Circuit, and I told him in absolutely no uncertain terms that decision had to be appealed and that all available grounds for reversing it should be asserted. I made that decision. He did not. If Mr. Carnes had declined to appeal the decision in the Jackson case, I would have contacted the Alabama Attorney General and insisted that he either order Mr. Carnes to appeal it or assign someone else to do it. I felt very strongly about the matter, and I know I could have convinced the Attorney General to appeal if it had been necessary for me to go to him.

The reason I felt so strongly about the necessity of an all-out appeal on all available grounds is that the Federal District Court made some findings and holdings about my office as a whole that were wrong and that falsely branded my entire office with having followed race-based policies. Whatever may have been the actions and motivation of the single prosecutor who tried the Jackson case—and who is no longer employed in my office—the office as a whole has certainly not engaged in the practice of excluding black citizens from jury service. I consider the District Court's contrary finding to be wrong and to be an unfair mark against me and my entire office. I do not want that erroneous holding to stand.

Moreover, there are some more specific fact findings that the Federal District Court made that are simply wrong and that must be corrected. As just one example, the District Court held that my office had manipulated the trial docket in a racially discriminatory way. That is blatantly false. The evi-

dence, and all the evidence, was that that had happened in the administration of a prior District Attorney. It had not taken place at all during my administration, and it did not occur during the Jackson trial. I hope you can understand why I could not simply stand aside and let the erroneous finding that my office had engaged in such conduct become final.

Moreover, if the District Court's broadly sweeping language stands, it could possibly invalidate scores, or even hundreds of older convictions, even though the Defendants were guilty and clearly dangerous. Because of the great difficulty of retrying old cases, the decision in the Jackson case could lead to large numbers of guilty, violent criminals going free. That is especially true because the District Court effectively "repealed" Alabama's contemporaneous objection rule. If procedural default doctrine is going to be abandoned and hundreds of cases jeopardized, it should not be because of the opinion of a single District Court judge.

All of these reasons are why I decided an appeal must be pursued in the Jackson case. I still feel that way.

Mr. Bright also conveniently omits from his statement the fact that Mr. Carnes tried to get Patricia Jackson out from under a death sentence. After the District Court decision, Mr. Carnes contacted me and asked that I agree to a settlement whereby Jackson would receive a life imprisonment without parole sentence instead of a death sentence in return for not contesting the validity of her conviction. I was reluctant at first, because Ms. Jackson has murdered two people in cold blood several years apart. Nonetheless, Mr. Carnes persisted, and I agreed to the proposal provided the District Court opinion with its erroneous findings would be vacated. I did tell Mr. Carnes in no uncertain terms that I would take nothing less than a life imprisonment without parole sentence. I was later informed that Jackson's attorney favored the sentence reduction proposal, but Jackson vetoed it. In any event, Mr. Carnes tried to get her sentence reduced.

For these reasons, and others, Mr. Bright's criticisms of Mr. Carnes' role in the Jackson case is completely off base. Mr. Carnes did not decide to appeal the order granting relief. I did. Mr. Carnes, after some resistance on my part, got me to agree to a reduction in sentence proposal for Jackson. But she rejected it. Jackson's present situation is not the result of anything Mr. Carnes did. Instead, it is the product of my decision to have the case appealed and her decision to reject a reduction in sentence offer.

I would like to point out in closing that Jackson's two murder victims were not white. Each one was a black or African-American citizen. If she gets out and kills again, in all probability, her next victim will also be the same. It seems clear to me who has the most to lose from Jackson ever being released.

Respectfully submitted,

CHARLES FREEMAN,
District Attorney.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 6, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I understand that in connection with the nomination of Edward Carnes, some question has arisen about the policies of the Alabama Attorney General's Office concerning appeals from orders overturning convictions or sentences.

I know those policies, because in addition to being the present Attorney General, for eighteen continuous years before assuming my present position I was District Attorney of Montgomery County, and in that capacity I worked very closely with the three previous Alabama Attorneys General.

It is and always has been the policy of this Office to vigorously represent the interest of the people of this state in sustaining state court convictions. Towards that end, we do not forego appeals. We do not confess error, and we do not waive procedural bars. The only exception is where I am absolutely convinced that no colorable argument at all can be made in favor of sustaining the judgment of the state court that convicted and sentenced the criminal defendant. Both the district attorney who prosecuted the case and I have to be convinced of that. No assistant attorney general, including Ed Carnes, has the authority to vary my policies in respect to all out defense of state court judgments.

This has been my policy, and the policy of my predecessors in this Office, because we are elected to represent the people of this state as vigorously as we can. That is our authority and our duty.

In very rare instances no argument can be made and a confession of error occurs. Even then, I have insisted that all assistants in this office receive the express permission of the district attorney involved before that is done. That policy of mine applies to Mr. Carnes, as well as to others. In fact, I made sure that was the policy because I strongly disagreed with my predecessor's permitting Mr. Carnes to litigate against the district attorney's position on open file discovery in the Ex parte Monk case.

The case of Clayton Joel Flowers v. State is the only time during my administration that an assistant attorney general has been allowed to take a position contrary to that of a district attorney in the appeal of a criminal case. Ed Carnes convinced me to allow him to argue that the death sentence in that case should be reduced even though the district attorney disagreed. After Ed made that argument, I changed my mind and the position of this office in the case to agree with the district attorney. The Court of Criminal Appeals sided with Carnes, anyway. I then assigned another assistant to handle the remainder of the appeal and to advocate the district attorney's position.

To reiterate, as I have had occasion to tell assistants in this Office, including Mr. Carnes, I am the Attorney General. They are not.

Sincerely,

JAMES H. EVANS,
Alabama Attorney General.

DISTRICT ATTORNEY,
29TH JUDICIAL CIRCUIT OF ALABAMA.
Talladega, AL, May 7, 1992.

Re nomination of Ed Carnes.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in response to what I understand to be some accusations that Ed Carnes has been insensitive to the problem of black prospective jurors being struck from juries for racially discriminatory reasons. Let me tell you why such accusations are completely unfair.

Long before the Batson v. Kentucky decision ever came down, Mr. Carnes urged Alabama district attorneys, including me, not to strike blacks off juries unless there were race-neutral reasons to do so. He told us not to strike a black juror unless we would strike a white juror in the same situation. Before the Batson decision came down in 1986, Mr. Carnes admonished us not to use such strikes in a racially discriminatory manner and he felt it was wrong.

I, for one, followed Mr. Carnes' advice. I also ordered every assistant district attorney in my office to follow a strictly race-neutral jury strike policy even before the Batson decision came out.

It is simply unfair to accuse Mr. Carnes of being insensitive to the problem of race discrimination in jury selection when he did his very best to end racial discrimination in jury selection long before the Batson decision forced an end to it.

Please see that Mr. Carnes gets credit for the extraordinary action he took in trying to end racial discrimination in jury selection.

With every good wish, I am

Yours very truly,

ROBERT L. RUMSEY.

OFFICE OF THE DISTRICT ATTORNEY,
TENTH JUDICIAL CIRCUIT,
Birmingham, AL, May 8, 1992.

Chairman JOSEPH R. BIDEN, Jr.,
Senate Committee on the Judiciary, Washington, DC.

DEAR SENATOR BIDEN: I am District Attorney of Jefferson County, the most populous judicial circuit in Alabama, and I have been a prosecutor for twenty years. I have known Ed Carnes for over fifteen years. I know his attitudes about many subjects, including racial discrimination. He is adamantly opposed to it.

I have been told that his nomination to the federal appeals court is being opposed because some people say he did not do enough to stop racial discrimination in jury selection. That is not true.

At least as early as the early to mid-1980's, Mr. Carnes in talking with district attorneys, including me, spoke out against the use of peremptory strikes in a racially discriminatory way. In that pre-Batson era, there were very few practical restrictions on the way a prosecutor could use his peremptory strikes, and as a practical matter, there was no effective remedy for a defendant if a prosecutor removed blacks from the jury because they were black. Still, Mr. Carnes, on more than one occasion, told Alabama district attorneys not to do that. I personally heard him say that. It was before the 1986 Batson decision.

Those opposing Mr. Carnes' nomination seem to be concerned only with the possibility of racially discriminatory strikes by prosecutors. I can tell you that defense attorneys, particularly those representing white defendants charged with crimes against black victims, often strike all the blacks off a jury just because of their race. That is wrong, and no one in this entire country has done as much to stop that pernicious practice as Ed Carnes has.

Mr. Carnes drafted legislation to extend the prohibition against racial discrimination in jury selection that already applies to prosecutors to defense counsel as well. The purpose of that legislation was to ensure that neither side removed black citizens from jury service because of race. Mr. Carnes' bill, which was supported by the Alabama Black Legislative Caucus, did not pass the Alabama Legislature. Mr. Carnes did succeed in getting the Alabama appellate courts to adopt the rule of law that criminal defense attorneys, like prosecutors, could not strike black jurors because of their race. That success came only after Mr. Carnes had

raised and argued the issue on a number of different occasions. Once he took the issue all the way to the Supreme Court in a case involving the Ku Klux Klan lynching of a black man. So tenacious was Mr. Carnes in his fight against racial discrimination in jury selection that he convinced forty-five other states to join his effort in that case. The Southern Christian Leadership Conference and the Southern Poverty Law Center also joined him.

The Rodney King case, and its aftermath, shows the wisdom of Mr. Carnes' years of efforts to ensure that white defendants accused of crimes against blacks are not permitted to arrange an all-white jury. What Mr. Carnes has spent much effort doing is obtaining a rule of law to prevent any white defendants, including white policemen, from striking all the blacks off their jury because of race. That rule, which he has almost single-handedly established as the law of Alabama, will help reduce the number of all-white juries like those in the Rodney King case. That case vindicates Mr. Carnes' efforts. It is evidence that his nomination should be confirmed.

I do not know anyone else who has done nearly as much as Ed Carnes to fight racial discrimination in jury selection.

To say that Ed Carnes has not done enough to end racial discrimination in jury selection does a grave injustice not only to Mr. Carnes but also to the truth.

Very truly yours,

DAVID BARBER,
District Attorney.

THE SOUTHERN POVERTY LAW CENTER,
Montgomery, AL, June 8, 1992.

Re nomination of Edward Carnes.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: I write to urge you to vote to confirm Ed Carnes for a position on the Court of Appeals for Eleventh Circuit.

I am a lifelong Democrat who has been active in national party affairs. In 1972, I served as the national finance director for Senator George McGovern's Presidential effort. In 1976, I had the same role in President Carter's campaign.

I have also been active in opposing the death penalty. As the chief trial counsel for the Southern Poverty Law Center, I have represented approximately 50 criminal defendants in capital cases.

Given my background, I can assure you that I would not be actively supporting Ed Carnes—a Bush nominee who has represented the State in death penalty prosecutions—unless I was convinced he was an exceptional candidate.

No one questions Ed's competence. The legendary Frank Johnson—the Judge whose seat Ed has been nominated to take—has publicly stated that Ed is a "very good" choice for the job. The ABA Committee that reviewed Ed's background and work unanimously found him to be qualified.

Despite Judge Johnson's and the ABA's endorsement of him, the charge has been made that Ed has turned a blind eye to racial discrimination in jury selection. Some draw a parallel between his supposed lack of sensitivity and the circumstances that led to the outcome in the Rodney King beating trial.

In my view, these accusations are misguided. Before the Supreme Court's decision in *Batson v. Kentucky* provided an effective mechanism to stop prosecutors from excluding black jurors, Ed had urged Alabama's district attorney's to put an end to the practice.[1] In one case, Ed actually advised the Alabama Attorney General to move the trial of a black defendant to a venue where it was more likely that black persons would serve on the jury—precisely the reverse of what occurred in the Rodney King case.[2]

After the *Batson* decision, Ed successfully pushed to have the ruling extended in Alabama to prevent white defendants from discriminating against black jurors. As a result of Ed's work, what happened in the Rodney King case—the spectacle of having a jury with no black members try a white defendant charged with a crime against a black victim—is far less likely to happen here.

Ed has taken other strong stands against racial discrimination in his professional life. Early in his career, he worked to bar the importation of coal from South Africa. He personally prosecuted disciplinary charges against two racist judges and succeeded in having both removed from the bench. As chief counsel for the state on appeal, he preserved the conviction of a Klansman responsible for murdering four young black girls in the notorious bombing of the Sixteenth Street Baptist Church in Birmingham.

Ed's stand against discrimination in the courtroom has been matched by his stand in the community. When he learned several years ago that a racially insensitive remark had appeared in the student newspaper at his daughter's school, he immediately wrote the principal and expressed his outrage in this way: "Racial discrimination is wrong. Racially hostile and denigrating comments are wrong. Publishing or condoning such comments is wrong."

Ed's sentiments were not the product of a "confirmation conversion." Unlike many other nominees, Ed has never been a member of an organization that discriminated on the basis of race or sex. He has long attended an integrated church.

I have practiced law in Alabama for over thirty years. I have known many lawyers and many judges. Ed is one of the few judicial nominees, offered by either party, that I can support without reservation.

Sincerely,

MORRIS DEES,
Executive Director.

CHERRY, GIVENS, TARVER, PETERS,
LOCKETT & DIAZ, P.C.,
Mobile, AL, May 11, 1992.

Re Nomination of Ed Carnes.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I understand that in discussing Ed Carnes' nomination in last Thursday's Judiciary Committee meeting, you mentioned in a complimentary fashion that prosecutors in a Miami case were seeking a change of venue to ensure that there would be blacks on the jury at a retrial. I wanted you to know that Ed Carnes had done a similar thing which was even more praiseworthy.

While I was Alabama Attorney General, my office was considering the retrial of a case involving a black defendant charged with the brutal murder of a white victim. The two prior trials of the defendant, which produced convictions, had been before all-white juries. Even though Ed Carnes had had nothing to do with those prior trials, I asked him to look over the files and give me his advice.

He did so. Mr. Carnes told me that he thought it essential to fairness and to public acceptance of the result that any retrial of the case be before a jury which contained a substantial number of black citizens. He also advised me that if there was a retrial we should seek a change of venue to a county with a higher black population so that we could guarantee that there would be a balanced, multi-racial jury. I accepted his advice and intended to do just that.

As it turned out, that case was never retried. However, I thought you would find it interesting that Mr. Carnes had done several years ago what you complimented some Miami Prosecutors for doing recently. Indeed, Mr. Carnes' action are even more praiseworthy than that of the Miami prosecutors. In the Miami case, it was within the prosecutorial interest to have more blacks on the jury because the victims were black and the defendant is not. In our case, the opposite was true. The defendant was black and the victim was white. Mr. Carnes took the position that we should act to ensure more blacks on the jury not because of any interest in obtaining a conviction, but out of a sense of fairness.

I hope that after you consider this new information about Mr. Carnes' racial sensitivity, you will support his nomination.

Sincerely,

DON SIEGELMAN.

KENNETH F. INGRAM,
JUSTICE—SUPREME COURT OF ALABAMA,
Montgomery, AL, January 30, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing to urge your committee to confirm the nomination of Ed Carnes to the Eleventh Circuit Court of Appeals.

During the past twenty-nine years, I have been a practicing attorney, a judge on a state trial court of general jurisdiction, a judge on an intermediate level state appellate court, and a Justice on the Alabama Supreme Court. I am familiar with the work and reputation of the top attorneys in Alabama, and I know from personal observation that Ed Carnes is one of the very best attorneys in this state. He has a sterling reputation and is known throughout the bench and bar as a tough advocate but one who is fair and whose ethics are above reproach. He has skillfully handled cases of mind-boggling complexity and has shown a gift for analyzing, organizing, and solving difficult problems.

Let me also tell you about Ed Carnes' dedication to the cause of judicial ethics. For eight years I served on the Alabama Judicial Inquiry Commission. During six of those years, I served as chairman of the Commission, which is the body the Alabama Constitution gives the authority and responsibility to investigate and bring charges against Alabama judges for misconduct in office or violation of the canons of judicial ethics. Any charges the Commission brings are tried in the Alabama Court of the Judiciary. Throughout the entire time I was on the Judicial Inquiry Commission, Ed served as counsel to the Commission. He not only met with us each month, and advised us on legal matters, but he also litigated in the Alabama Court of the Judiciary the charges we brought against judges.

---

[1] See letter from Jefferson County D.A. David Barber to Senator Biden (attached); letter from Talladega D.A. Robert L. Rumsey to Senator Biden (attached).

[2] See letter from former Alabama Attorney General Don Siegelman to Senator Biden (attached).

As the Commission's attorney, Ed prosecuted eighteen cases against judges charged with misconduct in office or unethical behavior. In every single case, he was successful—all eighteen judges he prosecuted either resigned from office or were convicted after a trial and received sanctions, ranging from a public censure to removal from office. Ed has been absolutely tenacious in his commitment to and insistence upon the highest level of judicial ethics. I can think of no better attribute for a nominee to a judgeship.

Every judge and lawyer I have spoken with concerning this nomination is absolutely delighted that one who is so well qualified and who has such high moral character and dedication to public service has been chosen.

Sincerely,

KENNETH F. INGRAM.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, April 24, 1992.

Mr. CARL RAUSCHER,
c/o The Daily Report,
Atlanta, GA.

DEAR MR. RAUSCHER: I have read Brent Newton's opinion piece opposing the nomination of Ed Carnes. Because part of my duties at the Alabama Attorney General's Office involve statistics relating to capital punishment, I would like to respond to that part of Mr. Newton's piece in which he distorts the facts concerning race and capital punishment in Alabama.

Mr. Newton's conclusions are based upon false premises. He says that "during Mr. Carnes' tenure almost half of the executions were for black-on-white murders." In fact, only one-third of them have been. Thirty-three percent is not "almost half." Mr. Newton also says that "well over half of Alabama's death row is black." According to the latest figures circulated by the NAACP Legal Defense Fund, Alabama's death row contains 55 blacks, 56 whites, and 1 hispanic. *Death Row U.S.A.* (Winter 1991). It is simply false to state, as Mr. Newton does, that "well over half" of Alabama's death row is black.

Blacks account for sixty-six percent of the homicide arrests in Alabama, and sixty-four percent of the prison population. Thus, the percentage of blacks under sentence of death is *less* than the percentage of homicide arrests and of the prison population.

Mr. Newton's comparison of the percentage of executions involving black-on-white murders to the percentage of black-on-white killings annually (Mr. Newton's "four percent of all murders" figure) is very misleading. Mr. Newton's "all murders" figure is drawn from homicide statistics that do not distinguish capital murders for non-capital murders or even from cases of manslaughter. Of course, capital punishment is not available in non-capital murder and manslaughter cases. In any event, we know from the statistical studies in the famous *McClesky* case that, "white-victim cases tend to be more aggravated while black-victim cases tend to be more mitigated." *McClesky v. Zant*, 580 F.Supp. 338, 363 (N.D. Ga. 1984), *aff'd*, 753 F.2d 877 (11th Cir. 1985) (en banc), *aff'd*, 481 U.S. 279 (1987). Thus, if capital punishment is based upon aggravating and mitigating factors, as it should be, one would expect more death sentences in white victim cases.

The one statistical study that has been done on Alabama capital cases, completed in the early 1980's, found that 53 percent of the capital defendants tried for killing a white were sentenced to death while 68 percent of the capital defendants tried for killing a black received death sentences. That finding certainly does not indicate race-of-victim prejudice against blacks. (In fairness, it should be noted that the study did not consider aggravating and mitigating circumstances.)

Specific cases that have gone to execution in Alabama also evidence an absence of racial discrimination. For example, one case has gone to execution in which the defendant was under two separate death sentences—one received in a white victim case and one received in a black victim case. That defendant was executed for the black victim murder, not for the white victim murder.

Likewise, the one execution to be carried out involving a crime with black and white co-defendants also disproves Mr. Newton's thesis. A white man hired two black hit men to murder his wife. The white co-defendant was executed, while the two black hit men received prison sentences.

It is disingenuous of Mr. Newton to suggest that because Mr. Carnes argued against the so-called Racial Justice Act, he is not opposed to racial discrimination. That legislation has nothing to do with racial justice and everything to do with the de facto abolition of capital punishment. That is why Congress has consistently refused to enact it. Mr. Carnes supported the Equal Justice Act which would have prohibited any racial discrimination by the prosecution *and* the defense. A majority of the House of Representatives voted to substitute the Equal Justice Act for the so-called Racial Justice Act. A majority of the Senate also rejected the RJA.

I wanted to set the record straight and correct Mr. Newton's erroneous statements and conclusions.

Sincerely,

SANDRA J. STEWART,
Assistant Alabama Attorney General.

HOUSE OF REPRESENTATIVES,
ALABAMA STATE HOUSE,
Montgomery, AL, March 6, 1992.

Hon. JOSEPH BIDEN,
Chairman, Senate Judiciary Committee,
Washington, DC.

DEAR SENATOR BIDEN: It is my understanding that Edward E. Carnes, an Assistant Alabama Attorney General, has been nominated to be a United States District Judge in the Middle District of Alabama.

This letter comes to highly recommend Mr. Carnes for said position. I have known Mr. Carnes for many years and have known him to be fair and impartial toward all citizens without regard to race or color.

As Chairman of the Affirmative Action Committee of the Alabama Black Legislative Caucus, one of my responsibilities is to observe public officials and others in their actions toward minorities in the state of Alabama and I have found nothing that is negative in regards to Mr. Carnes' record in this matter.

Please give Mr. Carnes your great consideration.

Sincerely,

ALVIN HOLMES,
State Representative.

MONTGOMERY AL, *March 12, 1992.*

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in support of Ed Carnes who has been nominated to a position on the United States Court of Appeals for the Eleventh Circuit.

I am particularly qualified to speak about Mr. Carnes, because I have known him for over fifteen years, and I have observed his work from three different perspectives. I first came to know Ed when he and I were both employed by the Alabama Attorney General's Office in the 1970's. Later, I knew and worked with him after I became an assistant district attorney. Finally, I have had an opportunity to observe Ed as an attorney in my court during the nine years I have been a state trial court judge in Montgomery, Alabama.

Without reservation, I can say that Ed Carnes is an excellent attorney who is eminently qualified to be on the Eleventh Circuit Court of Appeals. He is one of the leading criminal law experts in this state.

More importantly, Ed is completely fair and has an excellent reputation for integrity and candor. On occasion, when a particularly thorny legal issue has arisen in a criminal case, some of the judges in this state, including me, have called upon Ed to join a conference and offer his views to the court and counsel for both sides. We have done that because we know that no one knows more about the criminal law than Ed Carnes does, and we also know that if the law is against the State's position Ed will not hesitate to tell us that. In fact, on more than one occasion when his advice was solicited, he informed the court and counsel for both sides that the prosecutor was wrong and defense counsel was right.

For these and other reasons, Ed Carnes has an unsurpassed reputation for fairness. I urge your committee to confirm him.

Sincerely,

CHARLES PRICE.

CIRCUIT COURT,
Anniston, AL, February 26, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: Mr. Ed Carnes of Alabama is currently being considered for appointment to the 11th United States Court of Appeals and is currently beginning, as I understand it, the process of Senate review. I would like to bring to your attention a case in which I was involved with Mr. Carnes, because I believe it says a great deal about his fitness for the bench.

I am the trial judge after whom the Alabama Supreme Court case of Ex Parte Monk derives its name. This case commenced upon me entering a judicial order requiring the district attorney to maintain an "open file" policy in a capital case. The D.A. sought mandamus to require me to rescind my order as it greatly expanded the scope of discovery as governed by Alabama procedural rules. While he was under no legal obligation to do so, Mr. Carnes, through the Attorney General's Office, represented me in this action. The requested mandamus was initially issued by the Alabama Court of Criminal Appeals. The Alabama Supreme Court, primarily due to Mr. Carnes efforts, overturned the intermediate appellate court and held that my order was not an abuse of discretion because of the exceptional circumstances encompassed in capital litigation.

I entered the discovery order under review in Ex Parte Monk after attending a judicial seminar in Tuscaloosa at which Mr. Carnes asked the assembled judges to consider such orders in capital cases. He told us about some capital cases in which he had discovered and disclosed exculpatory evidence that the prosecutor had kept hidden in his office files. While he discussed the practical benefits of maintaining an open file policy for all

those involved in the criminal justice system, the principal thrust of Mr. Carnes' remarks was that fairness dictated such a policy. We further discussed his feelings in a private conversation after his presentation. Based upon this, I can unequivocally tell you and the other members of the Committee that I understood his thoughts and suggestions to be based just as much upon moral conviction as legal practicality.

During the pendency of Ex Parte Monk, Mr. Carnes and I further discussed his thoughts about this issue. In this case, he could have elected to have had the local D.A.'s petition dismissed on a technicality; however, Mr. Carnes wanted precedent set for the state, not just our local circuit.

Were it not for Mr. Carnes, the most limited discovery provisions of our rules governing criminal procedure would prevail in Alabama. Now, other judges are entering open file discovery orders on request of the defendants. Mr. Carnes argued against the District Attorneys' Association in defense of my order and continues to suffer criticism from some D.A.s even today.

I think I know the real Ed Carnes. Though he is a dedicated advocate, I know him to be a moral, ethical and compassionate individual who is concerned about the rights of all litigants. I seriously doubt that I would have ordered the state to open its file further than the extent required by law had it not been for the expressed feelings and opinions of Mr. Carnes. A man who subjects himself to the public criticism of his colleagues is doing what he thinks is right, not what he might think is expedient. He would be an asset to the federal bench.

I hope my thoughts on Mr. Carnes and on the point of his moral and ethical makeup are helpful.

Sincerely,

SAMUEL H. MONK II,
Presiding Judge,
7th Circuit of Alabama.

CIRCUIT COURT,
Birmingham, AL, February 26, 1992.

Re Ed Carnes, Prospective Appointee, U.S. Court of Appeals for the 11th Circuit.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I write to wholeheartedly endorse Ed Carnes' candidacy for appointment to the 11th Circuit bench.

I have known Mr. Carnes for over ten years, having consulted him when I was a practicing lawyer and more significantly as a trial level judge here in Alabama.

You know that Mr. Carnes is a distinguished lecturer and author and the preeminent scholar in death penalty law here in Alabama and neighboring states. In fact, Mr. Carnes fields questions concerning death penalty litigation from judges and practitioners all over the county.

I have presided over twenty five or so capital cases at the jury trial level and have tried few capital cases without calling Mr. Carnes to check on new developments in the field. Often times during the course of litigating a case the lawyers, state and defense, will conference with Ed about an evidentiary question that was unforeseen.

Though I have not read the offending article appearing in the Atlanta Constitution, I read in my local paper that Ed was accused in the Atlanta article of being biased against defendants in capital cases and unduly using his cognitive skills and knowledge of the law to effect convictions. The author of this article could not be further from the mark!±

Through telephone conferences with Ed many capital cases are settled with the state bargaining not to seek the death penalty. When giving an advisory opinion re an evidentiary question Ed's counsel can be summed up as 'better safe than sorry', thus, a restrictive ruling ensues diminishing the criminating force of the state's case.

Because of Ed's counsel we trial judges have learned to authorize expenditures of state monies in appointed cases that place Alabama in a class of enlightened jurisdictions in the manner that our indigent defendants are represented. For example;

Two lawyers are appointed to represent an indigent, one must have at least 5 years of experience in the criminal field, special monies are awarded for private investigators, psychological or psychiatric workup, for scientific testing by one's own expert and payment of incidental expenses for travel, long distance phone, postage, etc. This and much more because Ed Carnes has preached for years to treat the indigent defendant as first class citizens.

Those of us who work in the death penalty field don't do so because we enjoy this very specialized area of the law nor are we advocates for the death penalty. It just comes with the turf.

As you know the state legislatures in Alabama, Florida and Georgia, served by the 11th Circuit, have all passed death penalty legislation subsequent to the 1972 Furman vs. Georgia case declaring the death penalty scheme unconstitutional as it existed. In fact, approximately thirty-five states have enacted new statutes that provide for the death penalty for the commission of certain crimes wherein the victim is intentionally killed.

Ed Carnes should be applauded for serving with distinction the people of Alabama, judges, the defense and prosecution bar and that spectrum of citizens touched by crime and the defendants charged.

Through the writings, seminars and numerous personal consults over the years Ed have given clarity to all of us laboring in the imposing arena of death penalty law. A sage once said "the law in an island of technicalities in a sea of discretion."

Ed Carnes has schooled me and many others about the technicalities, the discretion is jury and judge work.

Ed has never sentenced anyone nor recommended a particular sentence to a sentencing authority, he has performed his job as assistant attorney general with sagacity, diligence and humility.

Ed Carnes has brought great honor to this name and the office that he has held in the Attorney General's Office. He will distinguish himself as a jurist on the Eleventh Circuit. You and your colleagues will be proud of a job well done in confirming Ed Carnes to the lofty position that he seeks.

Thank you for the kindnesses I know that you will extend to Ed and his family when he is in Washington and for the industry you and the Judiciary Committee have exhibited over the past several years.

Yours truly,

JAMES H. HARD.

---

401 Church Street Post Office Drawer 1129
Mobile, AL January 29, 1992.

Re nomination of Ed Carnes to the U.S. Court of Appeals for the Eleventh Circuit Court of Appeals.

Senator JOSPEH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I know Ed Carnes, who has been nominated for an Eleventh Circuit judgeship, because he served under me when I was Alabama Attorney General, from 1986 through 1990. Ed was one of my division chiefs, I had daily contract with him, and I am familiar with his intellect, his industriousness, and his character.

Ed is one of the brightest lawyers I have ever known. You can see from his record of academic achievement that he is extremely intelligent, but he also has a wealth of common sense. Over and over again, while I was Alabama Attorney General. I saw Ed analyze complex problems, break them down into manageable parts, and solve them expeditiously. He can write clearly, concisely, and persuasively.

Ed is also industrious. On countless nights and weekends I saw him at the office hard at work. He turns out a prodigious amount of work.

Most importantly, Ed has an unassailable reputation and unimpeachable character. I do not know of any lawyer, certainly not any prosecutor, who has a better reputation throughout this state than Ed does. He is know as a tough advocate but one who is completely fair and ethical. While I was Attorney General, Ed came to me on a number of occasions and told me that he had to confess error in a criminal case because the prosecutor had engaged in some misconduct that Ed could not argue in good conscience was harmless, or because the defendant's rights clearly had been violated in some other way. On every such occasion, I acceded to Ed's request, because I trusted his judgment and I saw the strength of this views.

Let me give you one example. In 1990, the last year I was Attorney General, a district attorney convinced a judge to sentence to death a defendant who was only fifteen years of age at the time of the murder. The murder was especially brutal and depraved, but Ed was adamant that a Supreme Court decision precluded the death penalty for anyone who was fifteen years old at the time of the crime. The case generated a considerable amount of publicity where it occurred, and there was some public pressure for the Attorney General's Office to argue on appeal that the death sentence should be upheld. Ed refused. He persuaded me that the Supreme Court had held that the Constitution forbade a death sentence for such a defendant, and that it would be unethical to argue that the Alabama appellate courts should ignore the law of the land. Representing the State of Alabama on appeal, Ed confessed that there was error in the judgment and argued that the Court of Criminal Appeals should follow the Constitution and reverse the death sentence. The district attorney argued to the contrary, but he lost. The Court of Criminal Appeals reduced the sentence of life imprisonment.

Senator, as you know, I am a lifelong Democrat, but partisan politics should not matter. Ed Carnes has integrity and dedication to the rule of law, and that is what matters.

Sincerely,

DON SIEGELMAN.

THE SOUTHERN POVERTY
LAW CENTER,
Montgomery, AL, February 6, 1992.

Re nomination of Edward Carnes to the United States Court of Appeals for the Eleventh Circuit.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I wrote you a brief letter earlier to alert you to my support of

the then-impending nomination of Ed Carnes to the United States Court of Appeals for the Eleventh Circuit. Now that Ed has been formally nominated for that position, I would like to set down in greater detail, and for the record, the reasons why I feel it is so important that this nomination be confirmed.

Ed Carnes is a brilliant attorney who has excellent credentials for this position. I doubt if any other attorney in this state has argued as many cases before the Eleventh Circuit Court of Appeals and the Supreme Court as he has. I know no other attorney has argued any more ably in those courts than he has. His objective qualifications are apparent from his record. The reasons I wholeheartedly support Ed go beyond his resume.

Let me begin by saying that he and I do not agree on all legal and policy issues. For example, I differ with him on the subject of capital punishment. However, more people agree with him than with me on that issue, so his views are not outside the mainstream. Ed is not an ideologue, and he is not an extremist. He has been a vigorous and effective advocate, and he presses all of the legal doctrines and defenses his client has. In our adversary system, that is an ethical obligation of every attorney, and I would not want anyone on the federal bench who had not demonstrated those traits. What sets Ed Carnes apart and has earned my respect is the highly principled manner in which he has conducted himself in a difficult are of the law, and the deep and abiding sense of fairness he has displayed throughout his career.

I know of at least two instances in which Ed Carnes has gone into court as an assistant attorney general and argued against the prosecutorial position taken by a district attorney in a capital case. He did it once when a district attorney refused to open his files to full discovery by the defense. Even though it has never been held that the Constitution requires such a rule, Ed was convinced that fairness and good policy supported such a rule, and he persuaded our state supreme court to adopt it. In doing so, he argued against a district attorney with a more narrow view. You can see from reading the opinion in Ex parte Monk, 557 So.2d 832, 835–837 (Ala. 1989), that Ed is personally responsible for Alabama having one of the most progressive discovery rules in capital cases in this country.

Another example of Ed Carnes taking a stand based on principle in opposition to the views of a district attorney in a capital case occurred in the Flowers case last year. The district attorney had convinced a judge to sentence to death a defendant who was 15 years old at the time he committed the murder. Ed, as an assistant attorney general, refused to argue in favor of that result in the Alabama appellate courts and instead argued that a Supreme Court decision precluded it. The district attorney argued the opposite position, and the appellate court agreed with Ed. So far as I know, Ed Carnes is the only assistant attorney general in the history of this state to ever appear in the appellate courts and argue, as a matter of conscience, against the position taken by a local prosecutor, and he has done it twice.

Moreover, on several occasions, after a local prosecutor has gotten a conviction and Ed has obtained the files later in the appeal, he has discovered and promptly disclosed exculpatory evidence which resulted in a new trial. In one capital case he not only discovered and disclosed exculpatory evidence but within a matter of hours confessed error in the conviction and drafted the court order granting relief. I do not know of any other assistant attorney general or prosecutor anywhere in the country who can match his proven record of integrity.

Even though he represents the other side, Ed has also attempted to improve the quality of indigent defense representation in capital cases. He co-authored, with a former Chairman of the Alabama Bar's Indigent Defense Representation Committee, legislation to increase the amount paid to appointed counsel in capital cases. That legislation did not pass, but Ed was successful in having the amount of funds available to pay for defense expenses in state court collateral proceedings increased. That was not part of his job, but he did it out of a sense of fairness. I do not know of any other assistant attorney general in the country who has ever worked for an increase in indigent defense funds.

Ed Carnes also has a demonstrated record against racial discrimination. He has successfully prosecuted judicial misconduct charges against two state judges who engaged in racist behavior, and through his efforts both of those judges were removed from the bench. Ed has also tirelessly sought to prohibit the practice of white defendants accused of race crimes using peremptory strikes to remove black citizens from juries. On behalf of the Southern Christian Leadership Conference, I filed an amicus curiae brief in support of one of Ed's efforts on that issue. No one has done more on behalf of ensuring the rights of black citizens to serve on juries in cases involving hate crimes against blacks than Ed has.

All of these reasons explain why Ed Carnes enjoys tremendous respect throughout the bench and bar of this entire state. Prompt and unanimous confirmation of his nomination will send a valuable message reinforcing the importance of having government attorneys like him who perform their duties in a fair and principled manner.

As I mentioned in my earlier letter, I will be glad to testify on Ed's behalf should that be necessary.

Sincerely,

MORRIS DEES.

SAMFORD UNIVERSITY,
Birmingham, AL, February 7, 1992.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing in support of the nomination of Edward E. Carnes to a judgeship on the Eleventh Circuit Court of Appeals. While I know Mr. Carnes personally and know very well his professional reputation as an excellent lawyer and person of the highest integrity, my professional relationship with him has been confined to our mutual interest in dealing with the problem of post-conviction death penalty cases.

In 1987, the Board of Commissioners of the Alabama State Bar authorized the creation of a Task Force to define the Bar's responsibility to defendants in post-conviction capital proceedings. I chaired that Task Force.

The Task Force convened interested parties to make recommendations to the Bar. Included were the judges of the United States District Court in Alabama; the Alabama judges on the Eleventh Circuit Court of Appeals; state court judges and justices representing Alabama's trial and appellate courts; representatives of the governor and legislature of Alabama, the state bar, and the American Bar Association; and the Alabama Attorney General. Mr. Carnes was the assistant attorney general assigned to this initiative.

After numerous meetings, the Task Force recommended the creation by the state bar of the Alabama Capital Representation Resource Center designed to recruit attorneys to represent indigent defendants in post-conviction death penalty cases, to provide assistance through research and counsel to those attorneys, to educate lawyers in the defense of capital cases, and to monitor pending cases to assist the courts in dealing with the cases.

The state bar responded by establishing the Resource Center. It has operated since 1989.

Mr. Carnes participated actively in the establishment of the Resource Center. Although one of his responsibilities as an assistant attorney general was representing the state in post-conviction capital proceedings, he demonstrated his commitment to the principle of adequate and effective representation for these defendants.

Criminal defense lawyers have commented to me about the very professional manner in which Mr. Carnes handled these cases, about his cordial relationship with opposing counsel, and his willingness to accommodate opposing counsel when time constraints and other demands made it difficult for counsel to be prepared. Thus the rights of many defendants were protected by Mr. Carnes concern for, and commitment to, fairness in the criminal justice system.

Mr. Carnes has a brilliant legal mind. He has proven his ability to practice in widely divergent areas of the law. He enjoys an excellent reputation. His temperament is even, considerate, warm and friendly. His personal compassion and his devotion to the law and to the equal application of the law commend his selection. He will be a great judge and should be promptly confirmed.

Respectfully,

ALBERT P. BREWER.

FAWAL & SPINA,
ATTORNEYS AT LAW,
Birmingham, AL, March 12, 1992.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: This letter is written for the purpose of recommending Mr. Edward Carnes for confirmation by the United States Senate Committee on the Judiciary for an appointment to the United States Court of Appeals for the Eleventh Circuit. The undersigned is a practicing attorney in Birmingham, Jefferson County, Alabama. During my career, I have handled two capital murder cases. The first being the case of *Chastine Lee Raines* v. *Fred Smith*, CV 83–P–1080–S. The second being the case of *Coulter* v. *Fred Smith*, later *Coulter* v. *Morris Thigpen*, CV 86–HM–5648–NW. In both instances, Ed Carnes represented the Respondent.

In the case of Chastine Lee Raines, Mr. Raines' Petition for Habeas Corpus Relief was granted by the Honorable Sam Pointer in the District Court for the Northern District of Alabama as the direct result of information provided to me by Mr. Carnes. Raines had been convicted of capital murder during the commission of a robbery in Birmingham, Alabama. Raines was a non-trigger-man accomplice. The trigger-man in the case was Darryl Travis Watkins. Raines' trial occurred prior to the trial of Watkins. Watkins was also convicted of capital murder. During the direct appeal of Watkins' case, Mr. Carnes discovered a police investigation report which disclosed that an informant who gave his name as Johnny Jackson stated to

the police that he knew the true identity of the individuals who had perpetrated the crime and murder for which Mr. Watkins and Mr. Raines were subsequently convicted. The report disclosed an address for the informant and stated that the informant had been a student at Woodlawn High School.

This information has not been disclosed by the District Attorney at the time of Mr. Raines' trial. Mr. Carnes immediately informed me of the existence of the police report and the "Brady" material contained therein. Judge Pointer found that the information should have been disclosed to trial counsel and granted our Petition for Habeas Corpus Relief.

In the more recent case of David Lee Coulter, Mr. Carnes represented the respondent through original Federal Court Habeas proceedings, subsequent State Court proceedings, and again at the Federal level. Once the Federal District Court proceedings were terminated, I withdrew from further representation of Mr. Coulter because of the demands of my civil practice and he is now represented by other counsel. During my representation of Mr. Coulter, there were numerous instances when Mr. Carnes cooperated in obtaining information and facts beneficial to Mr. Coulter.

I have always found Ed Carnes to be fair and reasonable while at the same time performing his duties as an Assistant Attorney General with the utmost professionalism and integrity. I have never found him to be dishonest or in any way arbitrary in the performance of his duties. He has always been an able opponent, but never acted in a manner inconsistent with the highest moral and professional standards.

Based upon my personal experience and my understanding of Ed Carnes' reputation in the legal community in Alabama, I confidently and without reserve recommend him for confirmation by the Committee.

Yours very truly,

JOSEPH A. FAWAL.

MONTGOMERY, AL,
March 2, 1992.

Re nomination of Edward E. Carnes, U.S. Eleventh Circuit Court of Appeals.

Hon. JOSEPH R. BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I write in support of the President's nomination of Ed Carnes to fill a vacancy on the Eleventh Circuit Court of Appeals. My support does not come because I am a death penalty advocate or because I am pro-prosecution. I am neither.

I initially came to Montgomery, Alabama in 1980, to work for Legal Services Corporation of Alabama, where I represented indigent people in civil matters. Subsequently, I entered the private practice of law. A substantial portion of that practice consisted of representing indigent criminal defendants. In 1989, I left private practice to accept a position with the Alabama Department of Public Health. While I hold a commission as an assistant attorney general, I do not prosecute criminal cases; I neither draw a salary from nor report to the Attorney General of Alabama. The small amount of litigation I now handle is entirely civil in nature and concerns licensure of health care facilities. My relationship with Mr. Carnes has been exclusively as a fellow professional and opposing counsel. I am not in favor of the death penalty and certainly entertain no bias in favor of criminal prosecutors.

While in private practice, I handled some capital murder cases, both as appointed, reimbursed counsel in trials and direct appeals and as a volunteer in collateral appeals. In 1985, I was privileged to be the first recipient of the Alabama State Bar's annual Clarence Darrow Award, which is given for volunteer work in capital murder cases. I received this award in recognition of work I did on behalf of William "Chick" Bush. Ed Carnes was my opponent on that case. He proved his integrity and honesty. I want to share the story.

In late 1983, I was recruited by the Alabama Prison Project to assist Chick Bush. He had been convicted of capital murder in late 1981 and sentenced to die. His trial attorney had handled direct appeals as far as the Alabama Supreme Court, for which he was reimbursed. The same attorney filed a certiorari petition to the U.S. Supreme Court without compensation. When the petition was denied, he told his client that he would not handle any further appeals. The Alabama Supreme Court set a December 30 execution date.

I had never handled a capital murder case. I was relatively inexperienced and very reluctant to get involved. I did so only on condition that another, experience attorney be recruited to help me. Eventually, the NAACP Legal Defense and Education Fund, Inc., volunteered Mr. Deval Patrick, a very able lawyer working in their New York City office. By December 22, I was able to file in state court papers that had been prepared by Mr. Patrick. This was a collateral appeal of Mr. Bush's conviction and a request for stay of execution pending the collateral appeal.

In late 1983, pending executions were page five news as they are today. There had been only one execution under Alabama's latest death penalty statute: Alabama's prior statute had been held unconstitutional several years before. The first man executed under the new statute, John Louis Evans, had for all intents and purposes withdrawn his appeal a few months prior to his execution date. Chick Bush's execution would be fully contested, and as the date grew near, there was a considerable amount of publicity, much more than is drawn by an execution today.

The state court judge hearing the case scheduled a hearing for Saturday, December 24. I will never forget that day. I was all alone, the only person seated at the petitioner's counsel table. The judge was extremely upset with me because my application for writ of error and application for stay of execution were filed at such a late date (eight days before the execution). Ed Carnes was opposing counsel. He did not try to take advantage of the judge's anger nor did he inflame the situation. Instead, he very calmly explained to the judge that I was entitled to a full round of collateral remedy hearings in federal court, that I would almost certainly receive a prompt stay of execution from a federal court judge, that it was necessary for me to have that stay denied by a state court judge before going to federal court, that the judge should simply deny my state court application so that the case could proceed to federal court where we all agreed it belonged, and that I was merely doing my job.

The following Monday, December 26, I filed a habeas corpus petition and an application for stay of execution in federal court. The execution was still scheduled for 12:01 a.m., Friday, December 30. Mr. Carnes, Mr. Patrick, and I held repeated telephone conferences with the judge during that week. That judge repeatedly expressed reluctance to grant the stay, to my growing consternation. Mr. Carnes again and again told the judge that he should grant the stay. Finally, at noon, on Thursday, December 29, twelve hours before the execution, the judge issued a stay which stopped execution.

The largest radio station in Montgomery broadcast an editorial that night criticizing the judge's decision and castigating me by name. Mr. Carnes again did not make any inappropriate or inflammatory comments. I am sure that he had ample opportunity to do so, judging from the dozens of calls and inquiries that I received from reporters.

As discovery progressed in the case, Mr. Patrick and I became increasingly pessimistic about our chances. Our lynchpin arguments concerned the disproportionate number of death sentences given in Alabama to those convicted of murdering white victims rather than black victims. We had held out great hopes for the *McClesky* v. *Zant* case, which was then pending in U.S. District Court in Georgia and which raised the same issue about the death penalty there. During the course of our preparation, the district court there ruled against Mr. McClesky, and as you may be aware, this ruling was later affirmed by the Eleventh Circuit Court of Appeals and the U.S. Supreme Court. Mr. McClesky was recently executed.

In March, I received a phone call from Ed Carnes. While preparing his case, he had discovered a document in the district attorney's file. It was a piece of plainly exculpatory evidence that had not been elicited by the defense at trial. Ed told me that this meant that the evidence either had not been provided to the defense, a clear violation of the defendant's constitutional rights, or that its non-use by the defense made out a case of ineffective assistance of counsel. Either way, the defendant was entitled to a new trial and he intended to let the judge know that.

Chick Bush got his new trial. I'm sorry to say that he was convicted again, but the state did have some rather impressive evidence against him, including a taped confession to the murder. That conviction was also overturned on appeal, and he received a third trial where he was again convicted. That conviction is presently on appeal. Chick Bush is alive today on Alabama's death row, more than nine years after his last-minute stay of execution.

Ed Carnes could have pretended to overlook the evidence he found in the district attorney's file. He had no reason to doubt the defendant's actual guilt. He could have justified it to himself, telling himself that the failure of this evidence to appear at trial was harmless error. By turning over the evidence he aroused considerable ire from the local district attorney. He must have been tempted to save the state endless additional appeals and expense. If Ed Carnes had not confessed error in that case, there is no way that we possibly could have discovered the additional exculpatory evidence on our own. Chick Bush would not be alive today.

What Ed Carnes did in the Bush case was fundamentally honest and courageous. I am impressed, as is everyone who has opposed him, with his intelligence and legal ability. But I am most impressed with his integrity. If he could be a fair and impartial prosecutor in the atmosphere that surrounded the Bush case in 1983, then I have no doubt that he will easily do the same as a federal judge. I would be comfortable arguing any kind of case before him. I whole-heartedly support his nomination.

Sincerely,

RICK HARRIS.

[From the Birmingham News, Feb. 17, 1992]

POLITICS ASIDE

Alabama's Ed Carnes, nominated by President Bush for the 11th Circuit Court of Appeals in Atlanta, is:

A man with an excellent legal mind.

A man with an unusually high quotient of personal integrity.

The Alabama assistant attorney general who argues death penalty cases.

In the minds of some people, including the *Atlanta Constitution*, the third item on that list cancels out others. But those minds concentrate more on judicial politics than justice.

The Senate should have no trouble confirming Carnes. President Bush made an excellent choice. Sens. Heflin and Shelby should push hard for him.

The *Constitution* ran a blistering attack on Carnes last week, saying, among other things, that he "has done everything in his power to make sure indigent defendants in capital cases do not get a fair shake" and implying that was a shameful choice to fill the shoes of Frank Johnson.

But note that Judge Johnson himself has called Carnes a "very good" choice. As for depriving indigent defendants of a fair trial, we have the remarks of former Alabama Gov. Albert Brewer, who chaired a state bar task force on how indigent appeals in capital cases should be handled.

Carnes served on that task force in a way that showed "his commitment to the principle of adequate and effective representation for these defendants," says Brewer in a letter to Judiciary Committee Chairman Joseph Biden. And later, "the rights of many defendants were protected by Mr. Carnes' concern for, and commitment to, fairness in the criminal justice system."

Throw in another letter to Biden, this one from Alabama Supreme Court Justice Kenneth Ingram. Ingram Commended Carnes for his work as counsel to the state Judicial Inquiry Commission in which he prosecuted 18 state judges for misconduct, including two for racial bias on the bench.

Then top it all off with a fairly astonishing letter printed in the *Constitution* shortly after its editorial. It was written by Morris Dees, head of the Southern Poverty Law Center, which has defended a number of indigents in death penalty cases here.

Dees called Carnes a person of "tremendous integrity and talent." He said Carnes actually had gone to court and argued against positions taken by local prosecutors in death penalty cases when he thought they were wrong.

Further, that Carnes had disclosed evidence hidden in local prosecutors' files that tended to support defendants, even though doing so resulted in convicted murderers getting new trials.

Carnes is an honest and bright legal scholar who has spent most of his career helping victims instead of criminals. Politics aside, he'll make an outstanding judge.

[From the Alabama Journal, Apr. 3, 1992]

NOT REASON ENOUGH

The nomination of Alabamian Ed Carnes for a seat on the 11th U.S. Circuit Court of Appeals is assailed by civil rights organizations troubled by his vigorous support of appeals of death-penalty cases as an assistant state attorney general. That alone is not reason enough to deny him confirmation for the judgeship, especially not in light of the generally high marks for character and integrity he has received from many who have worked with him and even some who have opposed him in the courtroom.

There is a great deal of legal and philosophical disagreement over capital punishment, with people of high intelligence and good conscience found on each side. Mr. Carnes favors capital punishment. He drafted Alabama's death penalty statute and has defended it in numerous cases.

Some opponents of capital punishment seem to believe that makes Mr. Carnes unfit for the federal bench—where, by the way, he would not be hearing these death penalty cases. They claim he could not be an impartial judge with the desired sensitivities because of his forceful efforts to have Alabama's death penalty law enforced.

That's unfair to Mr. Carnes, in our view. He has worked zealously in behalf of his client—the state of Alabama—in these cases and it hardly seems fair to hold diligence against him. A defense attorney who worked equally hard for his client wouldn't be criticized for it.

Mr. Carnes does not appear to have been the sort of maddog prosecutor that opponents seek to portray. Indeed, on several occasions he has gone to court to correct errors made by local prosecutors which harmed the cases of defendants. Surely that indicates a commitment to having cases decided on the basis of the law properly applied.

Particularly telling is the support of Mr. Carnes' nomination by Morris Dees of the Southern Poverty Law Center, whose opposition to the death penalty is well known. Mr. Dees testified in favor of the nominee, calling him "an ardent foe of racial intolerance."

Others who know Mr. Carnes and do not share his views on capital punishment cite what they see as a high level of integrity in the man. If there are valid reasons why he should not be confirmed for this judgeship, they have not been revealed. His death penalty work is in no way an adequate justification for opposing him.

[From the Birmingham News, Apr. 2, 1992]

CARNES AND POLITICS

The Senate Judiciary Committee should, indeed, fully explore Ed Carnes' personal and professional record before signing off on the Alabama prosecutor's nomination to the 11th U.S. Circuit Court of Appeals in Atlanta—just as it should all federal judicial nominees.

But the Judiciary Committee must not allow petty partisan politics to sour its examination of Carnes in hearings under way this week in Washington.

Some civil rights activists are trying to derail Carnes' confirmation because, as an Alabama assistant attorney general, he argues death penalty cases. Carnes also is credited with helping rewrite Alabama's death penalty statute, another reason opponents say they are against him.

But that, in fact, is to Carnes' credit. As were death penalty laws in other states, Alabama's law was declared unconstitutional by the U.S. Supreme Court. Carnes helped make Alabama's law constitutional, which included passing government scrutiny.

Some opponents to Carnes are sincerely against the death penalty, therefore they are against Carnes. But it's downright unfair to characterize Carnes as an enemy of justice or civil rights because he performed well as an Alabama assistant attorney general.

Just the opposite is true, no better underscored than by the support Carnes has received from both Frank Johnson, the well-known U.S. district judge he'll replace, and from prominent civil rights lawyer Morris Dees, director of the Southern Poverty Law Center in Montgomery.

Johnson, who served 37 years on the federal bench, said President Bush made a "very good" choice when he nominated Carnes. Johnson is absolutely correct.

Dees, meanwhile, has called Carnes a person of "tremendous integrity and talent." Dees noted that Carnes has, in fact, gone to court and argued against positions taken by local prosecutors in death penalty cases when he thought they were wrong. That Dees and Carnes have been on opposite sides before in the courtroom is worthy of note.

There's no question that Carnes has an excellent legal mind—a point conceded even by his opponents. He also has a high degree of personal integrity.

And while Carnes may disagree with his opponents on the death penalty and other issues, that in no way means he's not qualified for the federal bench.

Alabama's Sen. Howell Heflin, the Judiciary Committee member who is chairing the Carnes' hearings, should be thorough and should be fair. But the Judiciary Committee must focus on the issues at hand: Carnes' personal and professional qualifications.

And while all sides should be heard, simply zeroing in on political differences, whether real or perceived, is wrong.

[From the Mobile Register, May 11, 1992]

CARNES GOOD CHOICE

The Senate Judiciary Committee showed uncommon good sense the other day in voting to confirm Alabama Assistant Attorney General Ed Carnes for the federal appeals seat held by retiring Judge Frank M. Johnson. The committee voted 10–4 to send the 41-year-old George Bush nominee for the U.S. Court of Appeals for the 11th Circuit before the full body for a vote.

The vote came after another of those now-predicatable campaigns by liberals to try rejecting any Bush nominee deemed politically incorrect. In the case of Carnes, his opponents wanted him rejected because he has been excellent in doing his job as a public servant.

The bottom line of the opposition was that Carnes has been in charge of writing and enforcing the death penalty law in Alabama.

As Alabama's leading advocate in death penalty appeals, Carnes for years has had the lead role in defending capital murder convictions. He helped draft our state's death-penalty law and heads Alabama's capital-punishment litigation division.

Committee chairman Joseph Biden, D-Del., said he voted against Carnes primarily because he never once refused to pursue an appeal in which prosecutors were accused of racial discrimination in jury selection.

The six Republicans on the panel voted along party lines while the eight Democrats split. Insiders said the split was caused largely because the nomination is strongly supported by Howell Heflin. D-Ala.

Heflin emphasized that the nomination of Carnes was supported by Johnson, a noted civil rights champion who is retiring from the 11th Circuit and would be replaced by Carnes, and influential lawyer and death penalty opponent Morris Dees, head of the Southern Poverty Law Center.

"What I was able to discover and pick up here was that he followed the law. . . . One thing that was not reflected on his resume was his fairness. He was not a win at all cost attorney," said Alan Simpson, R-Wyo.

Similar praise was showered on Carnes from colleagues around the nation as well as those who know him well in Alabama.

We trust the full Senate will follow the lead of the Judiciary Committee in getting this well-qualified man on the bench as soon as possible.

[From the Montgomery Advertiser, June 28, 1992]

ED CARNES: SENATE SHOULD CONFIRM ED CARNES

Ed Carnes' nomination to fill a vacancy on the 11th U.S. Circuit Court of Appeals has come under fire from civil rights groups which are working to prevent his Senate confirmation.

An assistant attorney general and chief of the state's capital-punishment litigation division, Carnes helped draft Alabama's death penalty law.

His opponents argue that Carnes has often defended systematic exclusion of blacks from juries in cases involving black defendants.

Despite that opposition, the nomination of Carnes, 41, an honors graduate of the University of Alabama and cum laude graduate of Harvard Law School, was approved 10-4 by the Senate Judiciary Committee.

It's long past time for the full Senate to follow the Judiciary Committee's example.

Carnes is far more complex than the portrait of a one-dimensional ogre his opponents seek to paint. As chief counsel for the state, Carnes persuaded appeals courts to affirm the conviction of the Ku Klux Klansman who killed four black girls in the 16th Street Church bombing case.

As chief prosecutor for the Judicial Inquiry Commission, it as Carnes who successfully led the effort to remove two state judges who were found guilty of sexual harassment and racially derogatory rulings and statements.

Unlike many judges already on the bench, he has never belonged to a club which discriminates against blacks, and he is a member of an integrated church.

While it is his job to argue the state's position in appeals courts, in two cases, after black defendants were convicted and sentenced to death, Carnes disclosed evidence favorable to them from the local prosecutor's file. Both defendants got new trials. That is hardly the *modus operandi* of a death penalty-obsessed, Darth Vader-style prosecutor.

His supporters in Alabama cover the political spectrum. A Republican patronage panel nominated him, but he is supported by U.S. Sen. Howell Heflin, civil rights attorney Morris Dees, Judge Oscar Adams (the State's only black Supreme Court justice) Circuit Court Judge Charles Price and state Rep. Alvin Holmes of Montgomery.

Outside the state, 27 attorneys general from both major political parties have endorsed his nomination. As Attorney General Jimmy Evans has noted, Carnes has been an extremely effective advocate for the state's position as part of his job.

As a judge, his role will shift to that of referee. And The Advertiser believes he will be both effective and fair on the appellate bench as a good referee should be. Opponents have managed to stall his nomination for far too long. The U.S. Senate should stop being held hostage on this matter and expeditiously confirm Carnes' nomination.

[From the Birmingham News, May 11, 1992]

CARNES' STRONG SHOWING

The Senate Judiciary Committee was right on target Thursday when it gave Ed Carnes's nomination to the 11th U.S. Circuit Court of Appeals in Atlanta its strong endorsement. Sen. Howell Heflin did a good job of keeping the committee focused on Carnes' qualification, not petty politics.

Carnes deserved the overwhelming 10-4 endorsement, especially considering, when you get right down to it, the few opponents to his nomination are against him simply because he did such a good job arguing death penalty cases as an Alabama assistant attorney general.

The usual suspects on the committee—Sens. Joseph Biden, Edward Kennedy, Howard Metzenbaum and Paul Simon—voted against him, all listing Carnes' strong support of capital punishment as the reason for their vote.

Now opponents are taking their futile fight to the Senate floor, but they'll accomplish little except making Carnes' nomination yet another referendum on the death penalty.

One opposed, Steve Bright, director of the Southern Center for Human Rights in Atlanta, even went as far as to bring the Los Angeles police beating trial into the Carnes's debate.

"The critical factor is the Rodney King case and the increased awareness in this country of what the results of racial exclusion from the judicial system are," Bright said.

Bright is grasping wildly at straws and shows he really doesn't know much about Carnes.

Credit Heflin, too, for making sure the Judiciary Committee knew before it voted that Alabama civil rights leaders give Carnes high marks for integrity, fairness and ethical conduct.

And Morris Dees, director of the Southern Poverty Law Center in Montgomery and one of the nation's most prominent civil rights lawyers, said Carnes has "by far the strongest record on civil rights of any federal judicial nominee in the state in at least the past decade."

The full Senate should quickly confirm Carnes. He'll make an outstanding judge.

[From the Decatur Daily, Feb. 20, 1992]

CARNES WOULD BE GOOD JUDGE

Federal judges like Supreme Court justices, have long-lasting effects on the nation. Sometimes judges, like Supreme Court justices, get appointed for political reasons rather than for their legal brilliance. The result is bad law that either weaves its way into society or gets overturned in what sometimes is a long process.

Too often the best people are not interested in judgeships. Too often, the best people don't have the connections needed to get nominated.

Those elements, however, appear to be in place for the vacancy on the U.S. Court of Appeals for the 11th Circuit in Montgomery. Ed Carnes, a long-time assistant attorney general, has been nominated for that position. He has the reputation of being a brilliant attorney and has demonstrated integrity and compassion during his 16 years in the attorney general's office.

In 1972, he became the fifth person in the then 51-year history of the University of Alabama's School of Commerce and Business Administration to graduate with a 3.0 point grade average on a 3.0 scale.

He graduated cum laude from Harvard Law School in 1975.

He is a North Alabama product, having grown up in Albertville.

The nomination is before the Senate Committee on the Judiciary. We join many others in urging that he be approved. Mr. Carnes' long service to the state, his education achievements and his reputation are strong indications that he would make an outstanding federal judge.

[From the Selma Times-Journal, May 12, 1992]

CARNES SHOULD BE HONORABLE FEDERAL JURIST

Last week U.S. Senators Teddy Kennedy, Joe Biden, Howard Metzenbaum and Paul Simon voted against the nomination of Ed Carnes to fill a vacancy on the 11th Circuit Court of Appeals. Ten other Senators approved Carnes to replace legendary Judge Frank M. Johnson.

The jurisdiction of the 11th circuit includes Alabama, Georgia and Florida.

Carnes was nominated by President Bush based in part on Carnes' service as head of the Capital Litigation Division of the Attorney General's Office of Alabama. This made Carnes a highly-publicized target of many prominent politicians and national activists groups.

Bush nominated Carnes knowing full well that the nominee would be placed under the most intense scrutiny because of Carnes' role in sending criminals to death row. Despite extensive investigations of Carnes' background, no critic was able to produce anything to harm the nomination, other than his strong record as a defender of the public's rights.

"I was surprised to learn of his strong support from the civil rights community in Alabama," testified Sen. Howell Heflin, who interviewed many Alabamians about their knowledge of Carnes." . . . The answer that I got was that Ed Carnes was a highly intelligent, competent lawyer, a tenacious advocate, but an individual of the highest integrity and who at all times practiced fairness and ethical conduct."

Despite the concerns of Kennedy and others, none other than Frank Johnson has gone on record supporting Carnes for the job. Were looking forward to seeing Carnes in action.

[From the Mobile Press, Feb. 28, 1992]

EXCELLENT PICK FOR APPEALS COURT

President Bush made an excellent choice in nominating Alabamian Ed Carnes for the 11th Circuit Court of Appeals in Atlanta.

Carnes, who graduated cum laude from Harvard Law School in 1975, for the last decade has headed the division of the attorney general's office that handles appeals in death penalty cases.

After the U.S. Supreme Court declared Alabama's death penalty law unconstitutional in 1980, Carnes wrote a new law that has been upheld by the courts. He also wrote a child pornography statute that set penalties of up to life in prison.

Carnes has been widely praised, even by those who have opposed him in the courtroom, for his fairness, integrity, skills, intelligence and hard work.

Alabama Sens. Howell Heflin and Richard Shelby should now push hard for Senate confirmation of the Alabama assistant attorney general to replace Judge Frank Johnson.

[From the Birmingham News, July 31, 1992]

CARNES UNCANNED

It's good to see Majority Leader George Mitchell keeping his promise to call a vote on Ed Carnes' nomination to the 11th Circuit Court of Appeals before the Senate recesses Aug. 12.

Some misguided opponents of the Carnes' nomination in the Senate, U.S. House and

elsewhere have been trying to convince Mitchell not to bring it up for debate at all.

But to his credit, Mitchell is following the advice of Alabama Sens. Howell Heflin and Richard Shelby, both strong supporters of the Carnes nomination, and is going forward.

If opponents to Carnes really have a case, they should make it before the full Senate during debate.

The problem opponents have is that their charges against Carnes just don't hold up. That was apparent after the Senate Judiciary Committee approved his nomination by a 10-4 vote.

Thus they have discovered the only way they can derail Carnes is to prevent his nomination from ever coming to a vote.

Carnes, an assistant Alabama attorney general, has drawn opposition from civil rights groups who contend he has been overzealous in defending the practices of prosecutors in death penalty cases.

Yet Carnes gets high marks for fairness and integrity from civil rights leaders who have seen him at work. One of his strongest supporters is Morris Dees, head of the Southern Poverty Law Center.

Unfortunately, the Carnes' nomination has come down to a referendum on the death penalty. That's unfair to Carnes, who should be judged on his qualifications, personal integrity, ethics and fitness for the court. And litmus tests are always the wrong way to go about picking a federal judge.

Heflin and Shelby should stand fast, and Mitchell must not buckle under the pressure from a small but vocal group that wants him to keep the Carnes' nomination off the floor.

[From the Alabama Journal, June 26, 1992]

HELPFUL OPPOSITION

The fact that supporters of Lyndon LaRouche are opposing the nomination of Alabamian Ed Carnes to the 11th U.S. Circuit Court of Appeals is clearly a point in his favor. It's almost enough by itself to justify his confirmation.

LaRouche is running for president again, this time from a prison cell, where he most decidedly belongs.

His loony blend of conspiracy theories has found an audience, but opposition to Mr. Carnes from his corner of the fringe has to help a lot more than it hurts.

The more that people associated with this extremist speak against Mr. Carnes, the further they erode the credibility of other opponents.

[From the Birmingham Post-Herald, May 13, 1992]

MISPLACED OPPOSITION

Confirming a nominee for a federal judgeship should never be simply a process of checking off that individual's resume against an arbitrary list of education and legal experience. The nominee's general legal philosophy and temperament are also areas that senators should explore and consider before voting to confirm or reject the president's choice.

However, there is a difference between finding a nominee's general legal views unacceptable and deciding to oppose the nominee because of his or her views on a single issue. The former is a legitimate reason to reject a nominee, as happened to Robert Bork a few years ago. The latter is not.

A majority of the Senate Judiciary Committee made the proper distinction last week when 10 members voted to recommend the confirmation of Ed Carnes, an Alabama assistant attorney general, to a seat on the 11th U.S. Circuit Court of Appeals.

However, the committee was not unanimous. Four senators—Joseph Biden, Edward Kennedy, Howard Metzenbaum and Paul Simon—voted against Carnes because of his strong advocacy for Alabama's capital punishment laws and despite their agreement that he is well qualified.

Their reasoning is so flawed it doesn't bear even cursory scrutiny. The establishment of a death penalty for certain crimes is a legislative function. The role of the courts is to ensure that when it is imposed, the law is being constitutionally applied to the particular defendant.

While Carnes has been an advocate for the death penalty, he has also been sensitive to the legal rights of defendants.

Furthermore, Carnes' views on capital punishment are largely irrelevant to sitting on the appeals court. While he will be called on to rule on death penalty appeals, he must follow the Supreme Court's lead. And as they recently demonstrated in a California case, the justices take a very active role in death penalty cases.

Assuming he is confirmed by the full Senate—as he should be—Carnes is likely to make his mark as a judge in areas of the law other than capital punishment.

[From the Decatur Daily, May 17, 1992]

CARNES SHOULD BE JUDGE

Civil rights lobbyists have not done their homework in opposing Ed Carnes' nomination to the 11th U.S. Circuit Court of Appeals.

They have zeroed in on one aspect of this dedicated assistant Alabama attorney general's record and used that to pronounce him an unfit judge.

The rumor mill works overtime as opponents of the death penalty try to delay Senate confirmation.

Civil rights advocates incorrectly have concluded that because Mr. Carnes is a strong advocate of the death penalty that he is weak on civil rights, while the opposite is true.

Mr. Carnes has been an active foe of the Ku Klux Klan. He has opposed the routine striking of black jurors from jury lists because of their race. He represented black defendants who were being sued by whites when it wasn't politically correct.

On a 10-4 vote, the Senate Judiciary Committee recently recommended Mr. Carnes' confirmation. But Sen. Alan Cranston, D-Calif., has asked Senate Majority Leader George Mitchell, D-Maine, to delay full Senate consideration on the nominee until next month.

Mr. Carnes' opponents cite the Rodney King verdict as a reason to slow the confirmation. But this appointment is not about Rodney King or police brutality. This issue is about the death penalty.

Ed Carnes is not a zealot of the electric chair and does not advocate frying 'em until the eyes pop, but he supports the penalty when it fits the crime.

The Senate has the opportunity to give its approval to an outstanding young legal mind, something the federal bench presently lacks because of a decade of political appointments.

[From the Mobile Press Register, May 30, 1992]

TRUE SUPPORTERS OF CIVIL RIGHTS BACK CARNES

People for the American Way says it is miffed because "ideologues" have been appointed to federal courts. More correctly, however, the organization is angry not because ideologues may have been appointed, but because its brand of ideologues haven't been.

PAW issued a 300-page report this week pointing to the nomination of Alabama death penalty prosecutor Ed Carnes to a federal appeals court as a prime example of how the Reagan and Bush administrations have packed the courts in the name of judicial restraint.

Carnes has been nominated for the 11th U.S. Circuit Court of Appeals vacancy created by the retirement of Frank M. Johnson, a noted civil rights judge.

PAW has tried to paint Carnes as an enemy of civil rights because of his support for the death penalty. But the facts belie such an accusation. Carnes has worked to ban the importation of South African coal mined by indentured labor, represented black public officials sued by whites and got two judges removed from the bench for engaging in racist behavior.

The South's leading civil rights attorney, Morris Dees, has described Carnes' record against racial discrimination as "outstanding." Dees has endorsed Carnes' nomination, as has Judge Johnson whom Carnes would replace.

If PAW was truly concerned with civil rights, instead of pursuing a hidden agenda over the death penalty, it would be among Carnes' strongest supporters.

[From the Tuscaloosa News, May 17, 1992]

NOT THIS LAMB

Will Ed Carnes become the Reginald Denny of the federal courts?

Carnes, a first-rate prosecutor in the Alabama Attorney General's Office, is beginning to share a single misfortune with Denny, the truck driver who was pulled from his vehicle and savagely beaten at a South Central Los Angeles intersection: Both men were in the wrong place at the wrong time when the Rodney King verdict was released.

Denny has been released from a West Coast hospital, but out on the East Coast, some members of the U.S. Senate and some assorted activists are just beginning to land their blows on Carnes, who was nominated to replace U.S. Circuit Court Judge Frank Johnson on the federal appeals bench in Atlanta.

Carnes' major sticking point has been that he argued capital cases in Alabama for the Attorney General's office—not that he argued them poorly or unethically, but simply that he argued them. Some activists are insisting that Carnes has shown racial insensitivity, despite vociferous arguments on Carnes' behalf from many black and liberal leaders in Alabama.

The Senate Judiciary Committee approved the Carnes nomination 10-4, with Ted Kennedy, Joe Biden, Howard Metzenbaum and Paul Simon in opposition. Now other liberal Senators are preparing to pile on the nominee—with Alan Cranston, the best senator that money can buy—in the lead.

We think this senseless Senate carnage ought to stop. Howell Heflin, in arguing on behalf of his fellow Alabamian, noted that a long list of even-minded Alabamians have spoken out on behalf of Carnes, who is a University of Alabama graduate and Harvard trained lawyer.

Frank Johnson called Carnes a "very good choice"; state Supreme Court Justice Oscar W. Adams, the first black elected to the high court, strongly supports Carnes.

Morris Dees, perhaps Alabama's single most identifiable figure in matters of civil

rights and the courts, testified on Carnes' behalf and wrote an impassioned letter to the SCLC, urging support for the Alabamian.

Despite Carnes' skilled efforts for the state in capital cases, Dees wrote that "Ed Carnes has done more than virtually any other attorney in Alabama to increase state funding for indigent capital defendants. . . For once, we have a nominee who has fought the Klan and who has fought racist judges. For once, we have a nominee with a strong record of fairness."

Does it sound like Carnes is a bigot? Not to us.

He's is a good man caught between the outrage generated by the L.A. verdict and opportunists on the hunt for a sacrificial lamb. Let them find another lamb.

[From the Montgomery Advertiser, July 31, 1992]

APPROVE CARNES: SENATE SHOULD OK JUDICIAL NOMINEE

Senate Majority Leader George Mitchell wisely refused to surrender to demands from civil rights leaders that he stop a scheduled vote on nomination of Edward Carnes to a vacancy on the 11th Circuit Court of Appeals.

National black political leaders Wednesday tried to block consideration of the nomination by the full Senate. The Senate Judiciary Committee approved Carnes' nomination 10-4.

Civil rights leaders have worked against the nomination. Mitchell has promised the necessary confirmation vote before the Senate begins its summer recess on Aug. 12.

Carnes, 41, is an honors graduate of the University of Alabama, cum laude graduate of Harvard Law School, and assistant attorney general and chief of Alabama's capital-punishment litigation division.

His opponents charge that he has been too zealous in defending systematic exclusion of blacks from juries in cases involving black defendants. They now threaten extended debate of the nomination in an attempt to kill it.

Reportedly, black political leaders like the Rev. Jesse Jackson and U.S. Reps. John Conyers, D-Mich., and Ron Dellums, D-Calif., told Mitchell that Carnes is racially insensitive.

But those charges are hogwash. His public record indicates that he is a forceful advocate, but no racist. In fact, his record shows that he is just the opposite of a bigot.

As chief counsel for the state, Carnes persuaded appeals courts to affirm the convictions of Ku Klux Klansmen who killed four black girls in the 16th Street Baptist Church Birmingham bombing case.

As chief prosecutor for the Alabama Judicial Inquiry Commission, Carnes successfully led efforts to remove two state judges who were found guilty of sexual harassment and racially derogatory rulings and statements.

Unlike many judges already on the federal bench, he has never belonged to a club which discriminates against blacks, and he is a member of an integrated church.

And although it is Carnes' job to argue for the state in death penalty appeals, he has twice disclosed evidence from local prosecutors' files which helped to obtain new trials for black defendants who had been convicted and sentenced to death.

His supporters in the state cover a wide political spectrum. Although the Bush administration nominated him with the backing of a Republican patronage panel, he has strong support from the state's Democratic senators, Howell Heflin and Richard Shelby.

Justice Oscar Adams (the state's only black Supreme Court justice), Montgomery Circuit Court Judge Charles Price, state Rep. Alvin Holmes and civil rights attorney Morris Dees have backed the nomination.

If his nomination is blocked, Carnes will be punished for being good at his job of prosecution. As a judge, his role will shift to that of arbitrator and umpire, and we are convinced he would do an equally outstanding job in that role as well.

There should be a vote on Carnes' nomination before Congress recesses. That vote already has been delayed too long. The Senate should approve Carnes' nomination and go on about its business.

[From the Connecticut Law Tribune, May 11, 1992]

INJUDICIOUS TREATMENT OF JUDICIAL NOMINATION

(By Rosa Davis)

When Monroe Freedman, Hofstra University Law School professor of legal ethics, called me about a column he was writing for *The Connecticut Law Tribune* and other American Lawyer Media papers concerning Edward Carnes' nomination to the U.S. Court of Appeals for the 11th Circuit, I was glad to talk with him. A handful of people who oppose capital punishment with religious fervor have been attacking Carnes, who heads the Capital Punishment Division of the Alabama attorney general's office, and they have been less than candid about the nominee's record. As the chief of the Office of the Alabama Attorney General's Appellate Division and someone who has observed Carnes' work for more than 16 years, I welcomed the opportunity to share what I knew with Freedman or anyone else.

I confess I had some misgivings about Freedman's objectivity because he told me that he had already written the Senate to oppose Carnes' nomination—before he had called to ascertain the facts.

My misgivings were also based upon the source of Freedman's prejudgment of Carnes—Stephen Bright, an Atlanta attorney who has spearheaded the Carnes' opposition with an intensity that matches Bright's aversion to the imposition of capital punishment. Bright's ardor may spring from the fact that last month Alabama executed one of his clients, Larry Gene Heath, a man who had hired two men to murder his nine-months pregnant wife. To his credit, Bright fought tenaciously for his client, but he lost. To add insult to Bright's emotional injury, the result contradicted cherished stereotypes about the administration of capital punishment. Heath, a white man, was executed, while the hit men, both African-Americans, ultimately received non-death sentences.

Notwithstanding the source of Freedman's prejudgment of the Carnes' nomination, I hoped that some exposure to the facts might prevent him from parroting the Stephen Bright story line. Freedman's column in the Tribune ("The Ghostwriter Behind the Bench," April 27, 1992, Page 20) proved my hopes naive. Freedman repeats Bright's charge that Carnes has written numerous judicial opinions adopted by Alabama judges and that such a practice "raises some serious ethical issues."

At least Freedman does acknowledge that there is nothing wrong with an attorney submitting, with a copy to opposing counsel, proposed orders that judges are free to change. As Freedman concedes, neither Carnes nor anyone else can be faulted for acting as an advocate in such a situation. Freedman then proceeds to abandon the wisdom of his acknowledgment.

Freedman criticizes Carnes for one sentence that appeared in one order (actually drafted by another attorney) that stated that the judge "after long deliberation," could not "erase from my mind the circumstances surrounding this most senseless crime." That sentence, which Freedman says imputes to the court "a conscientious deliberative process and a subjective sense of outrage," supposedly supported reviewing courts' deference to the judge's decision.

That sentence, however, made fair inferences: The murder was outrageous and, in deciding to sentence a defendant to death, a judge certainly should follow a conscientious deliberative process. Moreover, the judge was free to modify that part of the sentence order as he modified other parts of it. It is as though Freedman is saying an attorney can be an advocate in preparing judicial orders but he cannot be a good one.

MANUFACTURING MISCONDUCT

During Carnes' confirmation hearings, Bright also attempted to implicate Carnes in the one instance in which the Alabama attorney general's office even submitted a draft order without simultaneous service of a copy on opposing counsel. The difficulty for Bright is that it is undisputed that Carnes neither condoned nor knew anything at all about that action. The first time Carnes heard of it was when he was given a copy of Bright's statement to the Senate Judiciary Committee, just three hours before the confirmation hearing began. That was two years after the events had occurred. The attorney who submitted the draft does not work under Carnes' supervision and never did. He has told everyone who will listen, including Freedman, that Carnes knew nothing about the *ex parte* submission.

The treatment of the "one instance of *ex parte* communication by Carnes" that Freedman says I acknowledged shows how desperate the opposition is to find misconduct where none exists. That incident involved a judge's inquiry about the timing of the filing of a pleading, clearly a procedural matter. Disciplinary rules prohibit *ex parte* communications "as to the merits of a cause" but not about procedural matters.

Carnes testified at his confirmation hearing that the judge called to ask him when he would file an answer to a state collateral petition. Carnes told the judge that opposing counsel had said he intended to file an amendment to the petition, and that Carnes would file his answer after that amendment was filed. Soon thereafter, Carnes set up a conference call with the judge and opposing counsel to discuss when the amendment, and then the answer, would be filed. So not only did Carnes stay well within disciplinary rules discussing only procedural matters, he went out of his way to involve opposing counsel, even though he was not required to do so.

Of all people, Freedman should be sensitive to baseless ethical aspersions. He is the leading proponent of the position that criminal-defense attorneys should actively assist their clients, if they insist, in presenting perjured testimony. Those views once led a bar grievance committee to investigate Freedman, who had merely espoused his opinion on the subject. Although his bizarre views were condemned, Freedman quite properly escaped any disciplinary action.

RESCUED FROM DEATH ROW

The attacks on Carnes are doubly unjust because no attorney has a better and more well-deserved reputation for fairness. He is the only assistant attorney general in the

history of Alabama to have taken a position in court opposed to that of a district attorney. He did that in one case to establish the rule, which he has long espoused, that the prosecutor's entire file should be open to the defense in capital cases—even though the Constitution does not require such an open-file policy.

In that case, the judge ordered a prosecutor to open his file to a capital defendant, and the prosecutor appealed that order. Carnes represented the judge on appeal against the entire district attorneys association. He won. The Alabama Supreme Court adopted a rule authorizing trial courts to order an open-file policy in capital cases, giving Alabama one of the country's most liberal discovery rules in capital cases.

In another case, Carnes argued against the district attorney that a death sentence had been imposed unconstitutionally and should be reversed. Again he won.

A Mobile attorney who had represented two inmates executed in Alabama testified before the Senate Judiciary Committee about Carnes: "In my 19 years since law school, no opponent has been fairer to me. No opponent has been more straightforward and forthcoming."

"I think he's absolutely principled," another Montgomery attorney, who has represented five capital defendants, publicly stated about Carnes. "I don't think he ever misleads counsel or the court. He is completely scrupulous."

In a letter to the Judiciary Committee, a Birmingham attorney told how Carnes had discovered and immediately disclosed exculpatory evidence that won the attorney's death-row client a new trial. A Montgomery attorney also testified before the Judiciary Committee that Carnes had literally saved his client's life. Not only did Carnes persuade a reluctant judge to grant a stay of execution so the man's claims could be heard, but he discovered and promptly disclosed exculpatory evidence, resulting in a new trial.

Carnes' fairness is such that even Bright, who rarely has anything good to say about any opposing counsel, is on record as crediting Carnes with assisting one of his death-row clients. After Carnes succeeded in having the death sentence of one of Bright's clients reduced based upon some new mitigating-circumstances evidence, Bright thanked Carnes for taking the extraordinary step of persuading the district attorney to support the lesser sentence after the death penalty had been repeatedly upheld. "I wish to express again my appreciation to you for working out this disposition of this case," Bright wrote, "I am most grateful." Bright's gratitude evaporated, however, when Carnes was nominated to the 11th Circuit.

EFFECTIVE ASSISTANCE

As Carnes' harshest critic, Bright charges and Freedman repeats that Carnes has "cynically sought to maintain a system of ineffective assistance of defense counsel in capital cases." Underlying that contention is the assumption that Carnes has complied with his ethical duty as an advocate and pleaded procedural default bars where applicable under the law. That is true, but there's nothing wrong with it. Freedman, whose expertise lies in other fields, assumes that asserting such procedural default bars takes advantage of ineffective assistance of counsel. That assumption is a legal non sequitur. A finding of ineffective assistance lifts any waiver that would otherwise exist should a procedural default occur at trial or an appeal. Therefore, it would be impossible for anyone to seek to maintain a system of ineffective assistance to further a regime of procedural default.

The real problem Bright and others have is that they think the Supreme Court decisions establishing the procedural default doctrine are wrong and that the standard for constitutionally effective assistance of counsel recognized in *Strickland* v. *Washington*, 466 U.S. 668 (1984), is too low. Carnes of course did not write any of these opinions; he just follows the law.

Freedman also echoes Bright's criticism of Carnes' statements to an American Bar Association task force that capital defendants, despite some exceptions, receive effective assistance of counsel. As usual, Carnes has data to back up his statements. At the time the task force convened, Alabama's capital statue had been in force for nearly 14 years and scores of capital cases had been tried. Yet, in only two cases had ineffective assistance of counsel been adjudicated and in one of these cases the attorney had been retained. It is hard to infer widespread ineffectiveness of appointed counsel from those facts.

Freedman claims that Carnes' defense of the capital-punishment scheme proved to be contrary to "the overwhelming conclusion of the task force report, as modified by the ABA's Criminal Justice Section." The final report and recommendations were fully embraced by only three of the 10 task-force members. Five members dissented because they thought it went too far, and two dissented because they thought it did not go far enough. Bright, as might be expected, was one of the two members who thought the report and recommendations did not go far enough. Eight members of the ABA's Criminal Justice Section Council also dissented, stating that the report "proposes reforms not in the best interest of our criminal justice system." Congress has never enacted any of those proposals.

Well-meaning attorneys and judges disagree about what should be done to cure problems in the capital litigation area. No fair-minded person, however, can dispute that Carnes has worked to improve the quality of representation provided indigent capital defendants. He wrote and signed the Alabama attorney general's official advisory opinion doubling the amount of out-of-court compensation paid to appointed counsel in capital cases.

He also co-wrote with the chair of the Alabama Bar Indigent Defense Committee legislation to raise the hourly rates and ceilings on compensation paid to appointed capital counsel at trial and in state collateral proceedings. Despite his efforts, that legislation did not pass. Carnes was successful, however, in persuading the legislature to appropriate funds for capital defendants in state collateral proceedings to hire expert witnesses and investigators. No other assistant state attorney general in the country has done as much as Carnes to improve indigent capital defense.

DELAYING TACTICS

The most disappointing aspects of Freedman's column about the Carnes' nomination is that he appears to embrace, perhaps unwittingly, Bright's politically motivated delaying tactics. In a letter to another Carnes opponent last month, Bright made clear that one of his aims is to delay the nomination in hopes that a new president would appoint someone more to his philosophical liking. Accordingly, even though the nomination has been pending for two months, Bright waited until the morning of the confirmation hearing to dump on the Judiciary Committee a lengthy written diatribe against Carnes. Now, Bright is orchestrating a campaign to delay a vote on the nomination. These are unworthy tactics and they should not be permitted to succeed.

As Freedman did at the end of his column, it is possible to summarize the evidence: (1) there is a preponderance of evidence that Freedman was duped by Bright; (2) the evidence is clear and convincing that Freedman prejudged the Carnes nomination and has been unfair in his treatment of it; and (3) there is overwhelming evidence that Carnes' nomination should be confirmed.

[From the Washington Post, Apr. 4, 1992]

WORTHY NOMINEE

Ed Carnes, nominee to the Court of Appeals for the 11th Circuit and subject of Nat Hentoff's column "A Shameful Judicial Appointment" [op-ed, March 7] has two serious problems.

First, Carnes is no stealth nominee. He has been involved in one of the most controversial areas of law—death penalty litigation. He has not been quietly working in a corporate firm and golfing on the weekends.

Second, and most important, Carnes has the unenviable task of following in the footsteps of Frank Johnson. Hentoff is not alone in viewing Johnson in heroic terms. Any replacement would pale in comparison.

But let's be fair to Carnes and acknowledge that Johnson publicly praised him in a Birmingham News interview as a "very good" choice for the bench. He pointed to the high quality of Carnes's work and added that his background as a prosecutor would be an asset for the court.

Carnes has a reputation for fairness. The charge that in one case he circulated "glossy color pictures of the victim" to the court of appeals "before any appeal was even pending in that court" is grossly misleading. The photographs were trial exhibits directly relevant to an issue raised at the eleventh hour by the defendant.

The notion that Carnes has tried to block funding for defense resource centers is equally misleading. On the state level, he has in fact obtained increased funding for indigent capital defendants. On the national level, he has called for equal funding for both sides for federal court work.

Carnes has been particularly sensitive to minority concerns. He personally prosecuted two state judges for making racist remarks and had them removed from the bench. And he successfully represented the state on appeal against a member of the Ku Klux Klan convicted of killing four young black girls in the notorious bombing of a Baptist church in Birmingham.

Carnes has not bowed to political pressure from district attorneys. In fact, he has enraged them by urging courts to reverse death sentences that were obviously unconstitutional and by disclosing material favorable to the defense hidden away in prosecutor's files. Some capital defendants have been put to death, and Carnes has been responsible for representing the state in each instance.

For this reason, it may be difficult for opponents of the death penalty to put aside their personal feelings and look at Carnes objectively. But if his support for capital punishment does not automatically disqualify him—if his qualifications and temperament mean anything—Carnes should be confirmed.

MORRIS DEES.

(The writer is executive director and chief trial counsel at the Southern Poverty Law Center.)

[From the Washington Post, July 1, 1992]

ED CARNES' RECORD ON JURY SELECTION

Nat Hentoff's arguments against the judicial nomination of Ed Carnes ["Wrong Judge for the Job," op-ed, June 16] were based upon distortions of Mr. Carnes' record and statements.

Mr. Hentoff mischaracterized Mr. Carnes' statements about a case in which the prosecutor had a list dividing jurors into categories of strong, medium, weak and black. Mr. Carnes had nothing to do with that and never defended it. He disagreed with the attorney general's policy against confessing error and gave that case as an example.

Further, Mr. Carnes never testified that sorting a jury by race would not violate fundamental fairness. He said, "Racial discrimination in jury selection is a loathsome practice which is always fundamentally unfair to the excluded jurors who are victims of it and to society at large."

He also said that whether discriminatory jury selection rendered the result of a particular trial fundamentally unfair by undermining the reliability of the guilty verdict depends upon the facts and circumstances. Mr. Carnes gave as an example a case in which all the blacks were struck off a jury that was trying a member of the Ku Klux Klan for murder (something Mr. Carnes had tried to prevent). Mr. Carnes said that the tactic of removing all the black jurors was wrong but that it did not undermine the reliability of the all-white jury's verdict that convicted the Klansman.

Mr. Carnes concluded, however, "Whether it affects the outcome of a particular case or not, racial discrimination against jurors is wrong because racial discrimination is wrong."

Mr. Hentoff attacked what he said was "Carnes' approval of all-white juries." Mr. Carnes not only did not approve of all-white juries, he has done everything in his power to prevent them. Even before the Batson decision, Mr. Carnes urged prosecutors not to strike blacks off juries because of race. In a case involving a black defendant and a white victim, he advised the attorney general to seek a change of venue to ensure a substantial number of blacks on the jury. That is exactly the opposite of what happened in the Rodney King case.

Mr. Carnes went to the Supreme Court in an effort to have the Batson rule extended to prevent racial discrimination by white defendants against black jurors. The Southern Christian Leadership Conference joined him in that effort. He persuaded an Alabama appellate court to adopt a rule prohibiting defendants from striking blacks from juries on racial grounds. No other judicial nominee in recent years can match that record or Mr. Carnes' strong civil rights record in other areas.

While Sen. Joseph Biden (D-Del.) voted against this nomination, he also favorably assessed Mr. Carnes' overall civil rights record. He said, "I acknowledge that if you were going to just sit down and say, on balance, if you put all the positive marks next to this man's name and all the negative marks, that the positive marks far outweigh on civil rights, the negative marks, in my view."

Mr. Hentoff failed to mention that.

ROSA H. DAVIS,
Assistant Alabama Attorney General.
MONTGOMERY, AL.

[From the Washington Times, June 24, 1992]

RELEASE EDWARD CARNES

The nomination of Edward Carnes, President Bush's choice to be a judge on the 11th U.S. Circuit Court of Appeals, was reported out of the Senate Judiciary Committee on May 7 on a vote of 9-4. That was seven weeks ago, and Democrats in the Senate continue to stall on scheduling a floor vote for the nominee.

The opponents of Mr. Carnes do not seem to have a reasonable prospect of defeating him on the Senate floor at the moment. Their apparent strategy is to delay the vote in the hope of producing a new trumped-up charge that will do the trick. Or at least to show the left-wing special interest groups that they're flexing their muscles.

The real objection to Mr. Carnes is his handling of death penalty cases in Alabama's appellate courts. Although Mr. Carnes, Alabama's assistant attorney general, does not prosecute capital cases at the trial level, he and the attorneys he supervises must defend a death sentence on appeal. In other words, Mr. Carnes is being attacked for doing his job well. A letter signed by attorneys general from 30 states is currently circulating on Capitol Hill, taking Mr. Carnes' opponents to task for this absurdity.'

The opponents have wrongly portrayed Mr. Carnes as a bloodthirsty prosecutor, a view that is not supported even by many of those who have opposed him in court. One defense lawyer, whose client received a new trial after Mr. Carnes turned over new evidence he had found hidden in a district attorney's file wrote: "Ed Carnes could have pretended to overlook the evidence he found in the district attorney's file. He had no reason to doubt the defendant's actual guilt. He could have justified it to himself, telling himself that the failure of this evidence to appear at trail was harmless error. Buy turning over the evidence he aroused considerable ire from the local district attorney. . . . If Ed had not confessed error in that case, there is no way that we possibly could have discovered the additional exculpatory evidence on our own. [the defendant] would not be alive today."

The liberals know they are outside the mainstream of public opinion on the death penalty issue. So they have tried to inject the specter of racism into the nomination debate by bringing up the fact that in post-conviction proceedings, Mr. Carnes has argued against the validity of claims sometimes made by black defendants that prosecutors used pre-emptory challenges or strikes to eliminate blacks from juries.

The pre-emptory challenge issue is once again a clear-cut matter of Mr. Carnes representing his client, the people of Alabama. In a letter sent to Sen. Joseph Biden, the Judiciary Committee chairman, six black lawyers wrote: "It is the ethnical duty of every government attorney to raise at post-conviction proceeding any and all available arguments on behalf of sustaining a conviction. That duty is a necessary part of our adversary system. . . . To say that a government attorney who carries out his ethical duty . . . is condoning racism is like saying that criminal defense attorneys who advocate on behalf of their clients are condoning crime."

Mr. Carnes' most prolific defender has turned out to be Morris Dees, the executive director of the Southern Poverty Law Center and perhaps the most distinguished civil rights lawyer in the South today. In a letter to The Washington Post, he wrote: "Carnes has been particularly sensitive to minority concerns. He personally prosecuted two state judges for making racist remarks and had them removed from the bench. And he successfully represented the state on appeal against a member of the Ku Klux Klan convicted of killing four young black girls in the notorious bombing of a Baptist church in Birmingham."

Finally, in this Senate testimony; Mr. Dees stated: "I am not Ed Carnes' friend. I have never been in his house. I am not in the same political party. And I have been part of, in my own organization, defending probably 75 people who face the death penalty. . . . But I am down here to speak out for Ed Carnes, because I believe Ed Carnes is a fair person."

Mr. Dees was able to separate his differences with the nominee from the issue of whether or not Mr. Carnes is a person "who wants to follow the rule of law." This is a distinction that Mr. Carnes' liberal opponents are simply unable or unwilling to make anymore.

[From the Montgomery Advertiser, May 17, 1992]

CARNES' LIFE ILLUSTRATES RACIAL PROGRESS

(By James J. Kilpatrick)

WASHINGTON.—On May 17, 1954, when Brown vs. Board of Education came down, Ed Carnes was not quite 4 years old. He was 5 when Rosa Parks refused to sit in the back of a bus in Montgomery. He was just past 12 when James Meredith fought his way into the University of Mississippi.

All this came flooding back the other afternoon. I was sitting in the empty hearing room of the Senate Judiciary Committee, going over the file on Carnes, and I fell to musing on the changes in his life and mine. We grew up in different worlds.

For the record, President Bush has nominated Carnes to succeed the venerable Frank Johnson on the U.S. Court of Appeals for the 11th Circuit. He is pretty well assured of Senate confirmation, now that the committee has voted 10-4 in his favor, but the nomination merits a friendly boost anyhow. With Sens. Kennedy, Biden, Metzenbaum and Simon against him, who could fail to vote in his favor?

Further for the record: Carnes is 41, a native Alabamian who got his degree at Harvard Law in 1975 and went immediately to work as an assistant attorney general in Montgomery. After four years of handling general trial work, he became chief of the division involved in capital sentences. That has been his specialty ever since.

The NAACP sent two witnesses to testify against his confirmation. Lillian Jackson charged him with "indifference and insensitivity to racial discrimination." George J. Kendall charged him with supporting local Alabama prosecutors who classify prospective jurors as "strong, medium, weak and black." Such a view is "smoking gun evidence" of intentional discrimination.

This adverse testimony was largely discounted by the support of a dozen Southerners, black and white, who have been closely identified with civil rights and desegregation. Carnes has the backing of Sens. Howell Heflin and Richard Shelby, both Democrats, and of Rep. Bill Dickinson, a Republican. Dickinson complained lightly that Carnes has "a dearth of Republican credentials," which is true. He is about as non-political as a man can get in public life.

What set me to musing was Carnes' account of his first jury trial as an assistant attorney general. He was assigned to represent the sheriff of Macon County and his three deputies. They had been charged in a civil suit with violating the civil rights of two plaintiffs by arresting them wrongly.

The interesting thing is that the sheriff and his deputies were black and the plain-

tiffs were white. "In 1976 it was noteworthy," said Carnes, putting the matter mildly, "to find two white lawyers employed by Alabama to defend four black citizens."

Noteworthy? In my day it would have been unheard of. I was born in 1920, a child of the wholly segregated South. By 1950, thanks to desegregation of the armed forces in World War II, the walls of segregation were beginning to crack. In 1964, with the Civil Rights Act, they would all come tumbling down.

As a reporter in the 1940s, I covered racist judges. One luminary of the police court bench spoke openly of the tough sentences "niggers" could expect from him. By the time Ed Carnes came of age in Alabama, it was very different.

An Alabama judge, Wilson Hayes, tried a divorce case involving a black husband who asked to be awarded the homestead he had brought to his marriage. The husband had fathered a number of children, some of them illegitimate. Judge Hayes offered to award him the property if the man would undergo a vasectomy.

"I felt that attitude had no place in Alabama and no place in the judiciary," Carnes said. He prosecuted charges against the judge that led to his removal from office. In another case, a judge publicly used a racial epithet. After an investigation, Carnes had him removed also.

The world goes round and round. In the 1930s, as a teen-ager, I would have scoffed at the notion that Alabama ever would have black mayors, black sheriffs, black judges. Today Ed Carnes numbers among his supporters Justice Oscar Adams, who sits on the Alabama Supreme Court, and Judge Charles Price, who sits on the Circuit Court bench in Montgomery.

In the ugly light of a burning city, it is apparent that the United States has a long way to go in race relations. Everyone knows that. But in reflecting on the nomination of Edward Earl Carnes of Montgomery, I am bound to believe that in his lifetime, and mine, we have come quite a long way.

[From the Wall Street Journal, May 5, 1992]

ANOTHER HOLDUP

Meet Edward E. Carnes, President Bush's nominee to one of the three vacant seats on the busy 11th Circuit of the Court of Appeals. Why is Joe Biden's Judiciary Committee holding up his confirmation?

Anthony Lewis, the New York Times's liberal columnist, concedes in an otherwise hostile story that there's no question of Mr. Carnes' "skill and intelligence." Morris Dees, director of the Southern Poverty Law Center and founder of the Klanwatch civil rights group, says Mr. Carnes "is a person of integrity, competence and outstanding character. He will make a fine judge." The attorneys general (all Democrats) of the three states of the circuit—Florida, Alabama and Georgia—have put in writing their view that Mr. Carnes is "one of the finest attorneys in the 11th Circuit."

For all this, Mr. Carnes has joined 64 other judicial nominees in a protracted senatorial limbo, waiting like Beckett characters for the Judiciary Committee to make up its august mind about them.

Mr. Carnes is the assistant attorney general of the state of Alabama, and head of that state's Capital Litigation Unit. Alabama law mandates the death penalty for murder under certain conditions. And it has been Mr. Carnes's responsibility, under Alabama law, to argue for the application of the death penalty in those cases. In the minds of his opponents, the execution of that responsibility disqualifies him from the bench.

Nobody has suggested that Mr. Carnes's behavior as an advocate has been less than admirable. He initiated the practice in Alabama of opening the state's entire file, rather than just material that the state attorneys consider exculpatory, to defense attorneys in capital cases. He has also, says Mr. Dees, "promptly disclosed exculpatory material found hidden in the files of local prosecutors, resulting in convicted murderers being given new trials."

Nor is there any suggestion that Mr. Carnes' advocacy has been tainted with bigotry in any way. In a case involving a gang of Klansmen who had kidnapped and lynched a black victim in 1981, Mr. Carnes fought to deny the Klansmen's attorneys the right to use their power to challenge jurors to exclude blacks from the jury. Only two Alabama judges have ever been removed from office for expressing racial prejudice. Mr. Carnes prosecuted both of them. Given the viciousness of the innuendoes and hints that his opponents have been circulating about him, it's probably worth noting that Mr. Carnes doesn't belong to any all-white clubs.

What Mr. Carnes has been doing in his dozen years as assistant attorney general of Alabama is carry out the law of his state. What his detractors at the Alliance for Justice and the NAACP apparently think is that, instead of bearing the responsibilities imposed upon him by that law, Mr. Carnes should have indulged himself in the sort of civil disobedience, as Robert Bork calls it, indulged in by the anti-death penalty judges of the Ninth Circuit.

In the opinion of Mr. Carnes' detractors, the sort of person who should sit on the appellate bench is not one who enforces the existing law as fairly as he can, but one who uses the judicial power invested in him as an opportunity for adventures of his own. If Senator Biden and the Senate Judiciary Committee assent to the further stalling of the Carnes nomination, they will be making it clear that they too subscribe to that view of the judge's role.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Wednesday, August 12; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately following the Chair's announcement, the Senate resume consideration of H.R. 11.

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

ORDER OF PROCEDURE

Mr. DOLE. Will the majority leader yield? I understand we will be back on the bill at 9:30 a.m. and I will just indicate to the majority leader, in the event that the Senator from Ohio wishes to set aside the amendment, we can accommodate the chairman and the manager on this side, Senator BENTSEN and Senator PACKWOOD, if we have amendments on this side, not surprise amendments, ones I think Senator BENTSEN is aware of that we will be prepared to offer on section 29 and on enterprise zones and the permanent so-called PEP and PEASE provisions in the tax bill.

Mr. MITCHELL. Mr. President, I have just a few moments ago been advised that Senator METZENBAUM may wish to have his amendment set aside for a brief period of time. In that event, I will convey to Senator BENTSEN, the manager, the gracious request of the distinguished Republican leader. I hope that we can get one or more amendments up in the morning and several amendments disposed of tomorrow, if that is possible. I thank my colleague.

TRIBUTE TO MAINE OLYMPIC ATHLETES

Mr. MITCHELL. Mr. President, before the Senate recesses this evening, I want to pay tribute to the outstanding performances of Michael Poulin and Kevin Mahaney, who are Olympic athletes from Maine.

Michael Poulin, a resident of Fairfield, ME, won a bronze medal in equestrian dressage.

Kevin Mahaney, from Bangor, ME, earned a silver medal as skipper of the U.S. soling team, which is the largest and heaviest of the Olympic yachting classes. This is the first year there has been Olympic match racing in this category.

There has been a lot of attention given to young athletes, but I would like to mention that neither of these fine athletes is a teenager. Both are adults, and their expertise has been earned over years of effort and dedication.

I am proud to represent a State with such fine athletes as Kevin Mahaney and Michael Poulin. I applaud the hard work by them that, I know, went into winning these Olympic medals.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 8:45 p.m., recessed until Wednesday, August 12, 1992, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 11, 1992:

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. ROBERT K.U. KIHUNE, U.S. NAVY, XXX-XX-XX...

CONFIRMATIONS

Executive Nominations Confirmed by the Senate August 11, 1992:

DEPARTMENT OF EDUCATION

BRUNO VICTOR MANNO, OF OHIO, TO BE ASSISTANT SECRETARY OF EDUCATION FOR POLICY AND PLANNING.

WILLIAM DEAN HANSEN, OF IDAHO, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF EDUCATION.

EMERSON J. ELLIOTT, OF VIRGINIA, TO BE COMMISSIONER OF EDUCATION STATISTICS, FOR A TERM EXPIRING JUNE 20, 1995.

DEPARTMENT OF DEFENSE

I. LEWIS LIBBY, JR., OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY.

DAVID SPEARS ADDINGTON, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF DEFENSE.

CAROL JOHNSON JOHNS, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 1997.

ROBERT S. SILBERMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

DEPARTMENT OF JUSTICE

HENRY EDWARD HUDSON, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE.

TIMOTHY E. FLANIGAN, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

STEPHEN H. GREENE, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT.

DEPARTMENT OF ENERGY

JOHN J. EASTON, JR., OF VERMONT, TO BE AN ASSISTANT SECRETARY OF ENERGY (DOMESTIC AND INTERNATIONAL ENERGY POLICY).

NATIONAL INSTITUTE OF BUILDING SCIENCES

VIRGINIA STANLEY DOUGLAS, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1993.

JOHN H. MILLER, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1993.

WALTER SCOTT BLACKBURN, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1993.

FEDERAL DEPOSIT INSURANCE CORPORATION

C.C. HOPE, JR., OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING FEBRUARY 28, 1993.

DEPARTMENT OF COMMERCE

JAMES D. JAMESON, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

LINTON F. BROOKS, OF VIRGINIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

SUSAN H. BLACK, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT.

SONIA SOTOMAYOR, OF NEW YORK, TO THE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

LORETTA A. PRESKA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

IRENE M. KEELEY, OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF WEST VIRGINIA.

TIMOTHY D. LEONARD, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

LOURDES G. BAIRD, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

IRMA E. GONZALEZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

RUDOLPH T. RANDA, OF WISCONSIN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

DEPARTMENT OF JUSTICE

DON J. SVET, OF NEW MEXICO, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NEW MEXICO FOR THE TERM OF 4 YEARS.

JOHN S. SIMMONS, OF SOUTH CAROLINA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF 4 YEARS.