HOUSE OF REPRESENTATIVES—*Thursday, August 1, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are aware, O God, that the thoughts we think are translated into words and our words are transposed into action and all that we do has great effect on us and those whom we represent and serve. Remind us day by day, O God, that what we think or say or do has a profound impression on the meaning and substance of all things. May Your word of peace be made known in our lives and may all we ask or think or do bring glory to Your creation and serve people whatever their need. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. PALLONE] come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 3215. An act to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians.

H.J. Res. 166. Joint resolution granting the consent of Congress to the Mutual Aid Agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1936. An act to amend the Nuclear Waste Policy Act of 1982.

S. 1995. An act to authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make a statement.

On May 25, 1995, the Chair took the opportunity to reiterate guidelines on the prohibition against former Members exercising floor privileges during the consideration of a matter in which they have a personal or pecuniary interest or are employed or retained as a lobbyist.

Clause 3 of House rule XXXII and the subsequent guidelines issued by previous Speakers on this matter make it clear that consideration of legislative measures is not limited solely to those pending before the House. Consideration also includes all bills and resolutions either which have been called up by a full committee or subcommittee or on which hearings have been held by a full committee or subcommittee of the House.

Former Members can be prohibited from privileges of the floor, the Speaker's lobby and respective Cloakrooms should it be ascertained they have direct interests in legislation that is before a subcommittee, full committee, or the House. Not only do those circumstances prohibit former Members but the fact that a former Member is employed or retained by a lobbying organization attempting to directly or indirectly influence pending legislation is cause for prohibiting access to the House Chamber.

First announced by Speaker O'Neill on January 6, 1977, again on June 7, 1978, and by Speaker Foley in 1994, the guidelines were intended to prohibit former Members from using their floor privileges under the restrictions laid out in this rule. This restriction extends not only to the House floor but adjacent rooms, the Cloakrooms, and the Speaker's lobby.

Members who have reason to know that a former Member is on the floor inconsistent with clause 3, rule XXXII should notify the Sergeant at Arms promptly.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain ten 1 minutes on each side.

THIS CONGRESS THE MOST PRODUCTIVE IN DECADES

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

Mr. ARMEY. Mr. Speaker, I want to congratulate the Republican Congress on the work that it is achieving this week in culmination of what has been years of hard work.

Yesterday the President agreed to sign our welfare reform measure and we passed it overwhelmingly through this body. We are going to go out now and address the needs of the American working men and women and the American family.

After this week is over, if the President again agrees to sign the work before this body, men and women working in America will no longer have to be afraid to change jobs, will no longer have to be concerned that they will lose their insurance portability, will no longer have to be disadvantaged if they are self-employed in the acquisition of the insurance that best fits their family's needs.

In addition to that, given the terrible burdens that fall on the family when two parents are working outside the home, we have an opportunity to allow them to have the choice, in legislation we will pass through this House this week, to choose between overtime and flex time so that those families that value time with their children more than the extra money may be free to choose for that configuration of compensation and time that best suits the needs of the family.

These are indeed good days for the families of America, and I must say, Mr. Speaker, I am so proud of the work that is done by this Republican Congress, the most productive Congress in decades.

KENNEDY HEALTH INSURANCE REFORM BILL BROUGHT TO HOUSE FLOOR

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

Mr. PALLONE. Mr. Speaker, it is a testimony to President Clinton and to the Democrats in Congress that the Kennedy health insurance reform bill will finally be brought to the floor in the House of Representatives today.

It was not until President Clinton this year, in his State of the Union address, said that he wanted to see health care reform and that people could take their health insurance with them when they changed jobs or lost jobs, or that they would not be barred from health insurance because of preexisting medical conditions, it was not until the President came forward and said he wanted that bill, a clean bill passed,

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that finally we were able to, grudgingly, get the Republican leadership to move this health insurance reform bill.

Even so, the Republican leadership constantly tried to kill and destroy the bill by throwing in the poison pill of medical savings accounts. Finally, the bill that comes to the floor today is essentially a clean bill. There is some provision for MSA's but it is a very small provision.

It was the recognition of the fact that only a clean bill, as promulgated and as preached by President Clinton, could pass this House and pass the Senate, it was only when the Republican leadership understood that, that it was possible to bring this bill to the floor today.

CONGRESS REFORMS HEALTH CARE AND WELFARE THIS WEEK

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

Mr. GANSKE. Mr. Speaker, today we take up the Health Insurance Portability and Accountability Act of 1996. This bill is long overdue. The American people have demanded this kind of change for many years. We will provide genuine health care reform, expand accessibility, ensure portability, and all without a Government takeover of the health care sector.

This bill fights fraud and abuse, it allows the self-employed to increase their health care deductible, it establishes medical savings accounts, and it provides deductions for long-term care.

This is a win-win proposal for the American people. We will provide expanded health care coverage without creating huge new bureaucracies. In fact, we will give more power to individuals to make their own decisions on health insurance.

Mr. Speaker, the debate gets pretty hot sometimes, but this week alone we will have reformed health care and welfare. I want to salute my colleagues on both sides of the aisle who have helped make this the most productive Congress in a generation.

CONFERENCE REPORT ON H.R. 3448, SMALL BUSINESS JOB PROTECTION ACT OF 1996

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

CONFERENCE REPORT (H. REPT. 104–737)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3448), to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

TITLE I

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

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

Subtitle A—Expensing; Etc.

Sec. 1111. Increase in expense treatment for small businesses.
Sec. 1112. Treatment of employee tips.
Sec. 1113. Treatment of storage of product samples.
Sec. 1114. Treatment of certain charitable risk pools.
Sec. 1115. Treatment of dues paid to agricultural or horticultural organizations.
Sec. 1116. Clarification of employment tax status of certain fishermen.
Sec. 1117. Modifications of tax-exempt bond rules for first-time farmers.
Sec. 1118. Newspaper distributors treated as direct sellers.
Sec. 1119. Application of involuntary conversion rules to presidentially declared disasters.
Sec. 1120. Class life for gas station convenience stores and similar structures.
Sec. 1121. Treatment of abandonment of lessor improvements at termination of lease.
Sec. 1122. Special rules relating to determination whether individuals are employees for purposes of employment taxes.
Sec. 1123. Treatment of housing provided to employees by academic health centers.

Subtitle B—Extension of Certain Expiring Provisions

Sec. 1201. Work opportunity tax credit.
Sec. 1202. Employer-provided educational assistance programs.
Sec. 1203. FUTA exemption for alien agricultural workers.
Sec. 1204. Research credit.
Sec. 1205. Orphan drug tax credit.
Sec. 1206. Contributions of stock to private foundations.
Sec. 1207. Extension of binding contract date for biomass and coal facilities.
Sec. 1208. Moratorium for excise tax on diesel fuel sold for use or used in diesel-powered motorboats.

Subtitle C—Provisions Relating to S Corporations

Sec. 1301. S corporations permitted to have 75 shareholders.
Sec. 1302. Electing small business trusts.
Sec. 1303. Expansion of post-death qualification for certain trusts.
Sec. 1304. Financial institutions permitted to hold safe harbor debt.
Sec. 1305. Rules relating to inadvertent terminations and invalid elections.
Sec. 1306. Agreement to terminate year.
Sec. 1307. Expansion of post-termination transition period.
Sec. 1308. S corporations permitted to hold subsidiaries.
Sec. 1309. Treatment of distributions during loss years.
Sec. 1310. Treatment of S corporations under subchapter C.
Sec. 1311. Elimination of certain earnings and profits.
Sec. 1312. Carryover of disallowed losses and deductions under at-risk rules allowed.
Sec. 1313. Adjustments to basis of inherited S stock to reflect certain items of income.
Sec. 1314. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers.
Sec. 1315. Financial institutions.
Sec. 1316. Certain exempt organizations allowed to be shareholders.
Sec. 1317. Effective date.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

Sec. 1401. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 1402. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 1403. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 1404. Required distributions.

CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

SUBCHAPTER A—SIMPLE SAVINGS PLANS

Sec. 1421. Establishment of savings incentive match plans for employees of small employers.
Sec. 1422. Extension of simple plan to 401(k) arrangements.

SUBCHAPTER B—OTHER PROVISIONS

Sec. 1426. Tax-exempt organizations eligible under section 401(k).
Sec. 1427. Homemakers eligible for full IRA deduction.

CHAPTER 3—NONDISCRIMINATION PROVISIONS

Sec. 1431. Definition of highly compensated employees; repeal of family aggregation.
Sec. 1432. Modification of additional participation requirements.
Sec. 1433. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
Sec. 1434. Definition of compensation for section 415 purposes.

CHAPTER 4—MISCELLANEOUS PROVISIONS

Sec. 1441. Plans covering self-employed individuals.
Sec. 1442. Elimination of special vesting rule for multiemployer plans.
Sec. 1443. Distributions under rural cooperative plans.
Sec. 1444. Treatment of governmental plans under section 415.
Sec. 1445. Uniform retirement age.
Sec. 1446. Contributions on behalf of disabled employees.

Sec. 1447. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 1448. Trust requirement for deferred compensation plans of State and local governments.
Sec. 1449. Transition rule for computing maximum benefits under section 415 limitations.
Sec. 1450. Modifications of section 403(b).
Sec. 1451. Special rules relating to joint and survivor annuity explanations.
Sec. 1452. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee; excess distributions.
Sec. 1453. Tax on prohibited transactions.
Sec. 1454. Treatment of leased employees.
Sec. 1455. Uniform penalty provisions to apply to certain pension reporting requirements.
Sec. 1456. Retirement benefits of ministers not subject to tax on net earnings from self-employment.
Sec. 1457. Sample language for spousal consent and qualified domestic relations forms.
Sec. 1458. Treatment of length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services.
Sec. 1459. Alternative nondiscrimination rules for certain plans that provide for early participation.
Sec. 1460. Clarification of application of ERISA to insurance company general accounts.
Sec. 1461. Special rules for chaplains and self-employed ministers.
Sec. 1462. Definition of highly compensated employee for pre-ERISA rules for church plans.
Sec. 1463. Rule relating to investment in contract not to apply to foreign missionaries.
Sec. 1464. Waiver of excise tax on failure to pay liquidity shortfall.
Sec. 1465. Date for adoption of plan amendments.

Subtitle E—Foreign Simplification

Sec. 1501. Repeal of inclusion of certain earnings invested in excess passive assets.

Subtitle F—Revenue Offsets

PART I—GENERAL PROVISIONS

Sec. 1601. Modifications of Puerto Rico and possession tax credit.
Sec. 1602. Repeal of exclusion for interest on loans used to acquire employer securities.
Sec. 1603. Certain amounts derived from foreign corporations treated as unrelated business taxable income.
Sec. 1604. Depreciation under income forecast method.
Sec. 1605. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.
Sec. 1606. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
Sec. 1607. Extension and phasedown of luxury passenger automobile tax.
Sec. 1608. Termination of future tax-exempt bond financing for local furnishers of electricity and gas.
Sec. 1609. Extension of Airport and Airway Trust Fund excise taxes.
Sec. 1610. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.
Sec. 1611. Treatment of certain insurance contracts on retired lives.
Sec. 1612. Treatment of modified guaranteed contracts.
Sec. 1613. Treatment of contributions in aid of construction.
Sec. 1614. Election to cease status as qualified scholarship funding corporation.
Sec. 1615. Certain tax benefits denied to individuals failing to provide taxpayer identification numbers.
Sec. 1616. Repeal of bad debt reserve method for thrift savings associations.
Sec. 1617. Exclusion for energy conservation subsidies limited to subsidies with respect to dwelling units.

PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

Sec. 1621. Financial Asset Securitization Investment Trusts.

Subtitle G—Technical Corrections

Sec. 1701. Coordination with other subtitles.
Sec. 1702. Amendments related to Revenue Reconciliation Act of 1990.
Sec. 1703. Amendments related to Revenue Reconciliation Act of 1993.
Sec. 1704. Miscellaneous provisions.

Subtitle H—Other Provisions

Sec. 1801. Exemption from diesel fuel dyeing requirements with respect to certain States.
Sec. 1802. Treatment of certain university accounts.
Sec. 1803. Modifications to excise tax on ozone-depleting chemicals.
Sec. 1804. Tax-exempt bonds for sale of Alaska Power Administration facility.
Sec. 1805. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.
Sec. 1806. Qualified State tuition programs.
Sec. 1807. Adoption assistance.
Sec. 1808. Removal of barriers to interethnic adoption.
Sec. 1809. 6-month delay of electronic fund transfer requirement.

Subtitle I—Foreign Trust Tax Compliance

Sec. 1901. Improved information reporting on foreign trusts.
Sec. 1902. Comparable penalties for failure to file return relating to transfers to foreign entities.
Sec. 1903. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 1904. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 1905. Information reporting regarding foreign gifts.
Sec. 1906. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 1907. Residence of trusts, etc.

Subtitle J—Generalized System of Preferences

Sec. 1951. Short title.
Sec. 1952. Generalized System of Preferences.
Sec. 1953. Effective date.
Sec. 1954. Conforming amendments.

TITLE II—PAYMENT OF WAGES

Sec. 2101. Short title.
Sec. 2102. Proper compensation for use of employer vehicles.
Sec. 2103. Effective date.
Sec. 2104. Minimum wage increase.
Sec. 2105. Fair Labor Standards Act Amendments.

TITLE I—SMALL BUSINESS AND OTHER TAX PROVISIONS

SEC. 1101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 1102. UNDERPAYMENTS OF ESTIMATED TAX.

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

Subtitle A—Expensing; Etc.

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

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

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

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

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

SEC. 1112. TREATMENT OF EMPLOYEE TIPS.

(a) EMPLOYEE CASH TIPS.—

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

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

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

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

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

"(2) ONLY TIPS RECEIVED FOR FOOD OR BEVERAGES TAKEN INTO ACCOUNT.—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary.".

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

SEC. 1113. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) is amended by striking "inventory" and inserting "inventory or product samples".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 1114. TREATMENT OF CERTAIN CHARITABLE RISK POOLS.

(a) GENERAL RULE.—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) CHARITABLE RISK POOLS.—

"(1) IN GENERAL.—For purposes of this title—

"(A) a qualified charitable risk pool shall be treated as an organization organized and operated exclusively for charitable purposes, and

"(B) subsection (m) shall not apply to a qualified charitable risk pool.

"(2) QUALIFIED CHARITABLE RISK POOL.—For purposes of this subsection, the term 'qualified charitable risk pool' means any organization—

"(A) which is organized and operated solely to pool insurable risks of its members (other than risks related to medical malpractice) and to provide information to its members with respect to loss control and risk management,

"(B) which is comprised solely of members that are organizations described in subsection (c)(3) and exempt from tax under subsection (a), and

"(C) which meets the organizational requirements of paragraph (3).

"(3) ORGANIZATIONAL REQUIREMENTS.—An organization (hereinafter in this subsection referred to as the 'risk pool') meets the organizational requirements of this paragraph if—

"(A) such risk pool is organized as a nonprofit organization under State law provisions authorizing risk pooling arrangements for charitable organizations,

"(B) such risk pool is exempt from any income tax imposed by the State (or will be so exempt after such pool qualifies as an organization exempt from tax under this title),

"(C) such risk pool has obtained at least $1,000,000 in startup capital from nonmember charitable organizations,

"(D) such risk pool is controlled by a board of directors elected by its members, and

"(E) the organizational documents of such risk pool require that—

"(i) each member of such pool shall at all times be an organization described in subsection (c)(3) and exempt from tax under subsection (a),

"(ii) any member which receives a final determination that it no longer qualifies as an organization described in subsection (c)(3) shall immediately notify the pool of such determination and the effective date of such determination, and

"(iii) each policy of insurance issued by the risk pool shall provide that such policy will not cover the insured with respect to events occurring after the date such final determination was issued to the insured.

An organization shall not cease to qualify as a qualified charitable risk pool solely by reason of the failure of any of its members to continue to be an organization described in subsection (c)(3) if, within a reasonable period of time after such pool is notified as required under subparagraph (C)(ii), such pool takes such action as may be reasonably necessary to remove such member from such pool.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) STARTUP CAPITAL.—The term 'startup capital' means any capital contributed to, and any program-related investments (within the meaning of section 4944(c)) made in, the risk pool before such pool commences operations.

"(B) NONMEMBER CHARITABLE ORGANIZATION.—The term 'nonmember charitable organization' means any organization which is described in subsection (c)(3) and exempt from tax under subsection (a) and which is not a member of the risk pool and does not benefit (directly or indirectly) from the insurance coverage provided by the pool to its members."

(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. 1115. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

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

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

"(1) IN GENERAL.—If—

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

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

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

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

"(A) $100, multiplied by

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

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

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—If—

(A) for purposes of applying part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 to any taxable year beginning before January 1, 1987, an agricultural or horticultural organization did not treat any portion of membership dues received by it as income derived in an unrelated trade or business, and

(B) such organization had a reasonable basis for not treating such dues as income derived in an unrelated trade or business,

then, for purposes of applying such part III to any such taxable year, in no event shall any portion of such dues be treated as derived in an unrelated trade or business.

(3) REASONABLE BASIS.—For purposes of paragraph (2), an organization shall be treated as having a reasonable basis for not treating membership dues as income derived in an unrelated trade or business if the taxpayer's treatment of such dues was in reasonable reliance on any of the following:

(A) Judicial precedent, published rulings, technical advice with respect to the organization, or a letter ruling to the organization.

(B) A past Internal Revenue Service audit of the organization in which there was no assessment attributable to the reclassification of membership dues for purposes of the tax on unrelated business income.

(C) Long-standing recognized practice of agricultural or horticultural organizations.

SEC. 1116. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) CLARIFICATION OF EMPLOYMENT TAX STATUS.—

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

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

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

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

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

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

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

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

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

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

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

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

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

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

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

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

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

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

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to remuneration paid—

(i) after December 31, 1994, and

(ii) after December 31, 1984, and before January 1, 1995, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

(B) REPORTING REQUIREMENT.—The amendment made by paragraph (1)(C) shall apply to remuneration paid after December 31, 1996.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 68 (relating to information concerning transactions with other persons) is amended by inserting after section 6050Q the following new section:

"SEC. 6050R. RETURNS RELATING TO CERTAIN PURCHASES OF FISH.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who is engaged in the trade or business of purchasing fish for resale from any person engaged in the trade or business of catching fish; and

"(2) who makes payments in cash in the course of such trade or business to such a person of $600 or more during any calendar year for the purchase of fish,

shall make a return (at such times as the Secretary may prescribe) described in subsection (b)

with respect to each person to whom such a payment was made during such calendar year.

"(b) RETURN.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of each person to whom a payment described in subsection (a)(2) was made during the calendar year;

"(B) the aggregate amount of such payments made to such person during such calendar year and the date and amount of each such payment, and

"(C) such other information as the Secretary may require.

"(c) STATEMENT TO BE FURNISHED WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such a return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(d) DEFINITIONS.—For purposes of this section:

"(1) CASH.—The term 'cash' has the meaning given such term by section 6050I(d).

"(2) FISH.—The term 'fish' includes other forms of aquatic life.".

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 6724(d)(1) is amended by striking "or" at the end of clause (vi), by striking "and" at the end of clause (vii) and inserting "or", and by adding at the end the following new clause:

"(viii) section 6050R (relating to returns relating to certain purchases of fish), and".

(B) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (Q) the following new subparagraph:

"(R) section 6050R(c) (relating to returns relating to certain purchases of fish),".

(C) The table of sections for subpart B of part III of subchapter A of chapter 68 is amended by inserting after the item relating to 6050Q the following new item:

"Sec. 6050R. Returns relating to certain purchases of fish.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after December 31, 1997.

SEC. 1117. MODIFICATIONS OF TAX-EXEMPT BOND RULES FOR FIRST-TIME FARMERS.

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

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

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

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

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

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

SEC. 1118. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

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

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

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

SEC. 1119. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

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

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

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

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

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

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

(c) EXPANSION OF OKLAHOMA CITY ENTERPRISE COMMUNITY.—Notwithstanding sections 1391 and 1392(a)(3)(D) of the Internal Revenue Code of 1986, the boundaries of the enterprise community for Oklahoma City, Oklahoma, designated by the Secretary of Housing and Urban Development on December 21, 1994, may be extended with respect to census tracts located in the area damaged due to the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995, primarily in the area bounded on the south by Robert S. Kerr Avenue, on the north by North 13th Street, on the east by Oklahoma Avenue, and on the west by Shartel Avenue.

(d) EFFECTIVE DATE.—

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

(2) SUBSECTION (c).—Subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 1120. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

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

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

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

"(E)(iii) ..... 20"

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

SEC. 1121 TREATMENT OF ABANDONMENT OF LESSOR IMPROVEMENTS AT TERMINATION OF LEASE.

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

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(4) BURDEN OF PROOF.—

"(A) IN GENERAL.—If—

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

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

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

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

"(5) PRESERVATION OF PRIOR PERIOD SAFE HARBOR.—If—

"(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

"(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period,

then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

"(6) SUBSTANTIALLY SIMILAR POSITION.—For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.".

(b) EFFECTIVE DATES.—

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

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

(3) BURDEN OF PROOF.—

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

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

SEC. 1123. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—Paragraph (4) of section 119(d) (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

"(4) EDUCATIONAL INSTITUTION, ETC.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'educational institution' means—

"(i) an institution described in section 170(b)(1)(A)(ii) (or an entity organized under State law and composed of public institutions so described), or

"(ii) an academic health center.

"(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term 'academic health center' means an entity—

"(i) which is described in section 170(b)(1)(A)(iii),

"(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

"(iii) which has as one of its principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity's own faculty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Extension of Certain Expiring Provisions

SEC. 1201. WORK OPPORTUNITY TAX CREDIT.

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

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

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

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

"(A) a qualified IV–A recipient,

"(B) a qualified veteran,

"(C) a qualified ex-felon,

"(D) a high-risk youth,

"(E) a vocational rehabilitation referral,

"(F) a qualified summer youth employee, or

"(G) a qualified food stamp recipient.

"(2) QUALIFIED IV–A RECIPIENT.—

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

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

"(3) QUALIFIED VETERAN.—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(5) HIGH-RISK YOUTH.—

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

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

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

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

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

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

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

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

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

"(7) QUALIFIED SUMMER YOUTH EMPLOYEE.—

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

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

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

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

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

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

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

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

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

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

"(8) QUALIFIED FOOD STAMP RECIPIENT.—

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

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

"(ii) as being a member of a family—

"(I) receiving assistance under a food stamp program under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date, or

"(II) receiving such assistance for at least 3 months of the 5-month period ending on the hiring date, in the case of a member of a family who ceases to be eligible for such assistance under section 6(o) of the Food Stamp Act of 1977.

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

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

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

"(11) SPECIAL RULES FOR CERTIFICATIONS.—

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

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

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

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

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

"(B) INCORRECT CERTIFICATIONS.—If—

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

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

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

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

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

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

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

"(B) has completed at least 400 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer.".

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

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

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

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

(e) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2), 41(b)(2)(D)(iii), 45A(b)(1)(B), 51 (a) and (g), and 196(c) are each amended in the text by striking "targeted jobs credit" each place it appears and inserting "work opportunity credit".

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

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

(4) The headings for sections 41(b)(2)(D)(iii) and 1396(c)(3) are each amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

(5) The heading for subsection (j) of section 51 is amended by striking "TARGETED JOBS CREDIT" and inserting "WORK OPPORTUNITY CREDIT".

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

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

SEC. 1202. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994." and inserting "May 31, 1997. In the case of any taxable year beginning in 1997, only expenses paid with respect to courses beginning before July 1, 1997, shall be taken into account in determining the amount excluded under this section.".

(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period the following: ", and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree".

(c) EFFECTIVE DATES.—

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

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

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

SEC. 1203. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking "before January 1, 1995,".

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

SEC. 1204. RESEARCH CREDIT.

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

"(h) TERMINATION.—

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

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

"(B) after May 31, 1997.

Notwithstanding the preceding sentence, in the case of a taxpayer making an election under subsection (c)(4) for its first taxable year beginning after June 30, 1996, and before July 1, 1997, this section shall apply to amounts paid or incurred during the first 11 months of such taxable year.

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

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

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

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

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

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

"(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

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

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

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

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

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

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

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

"(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research on behalf of the taxpayer and 1 or more unrelated taxpayers. For purposes of the preceding sentence, all persons

treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers.

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

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

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

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

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by inserting ", and before July 1, 1996, and periods after May 31, 1997" after "June 30, 1995".

(f) EFFECTIVE DATES.—

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

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

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid for a taxable year beginning in 1997.

SEC. 1205. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

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

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

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

(3) CLERICAL AMENDMENTS.—

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

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

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

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

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

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

"(2) after May 31, 1997.".

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

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

(d) ADDITIONAL CONFORMING AMENDMENTS.—

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

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

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

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

(5) Section 53(d)(1)(B) is amended—

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

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

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

(7) Section 280C(b) is amended—

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

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

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

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

SEC. 1206. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

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

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

"(i) after December 31, 1994, and before July 1, 1996, or

"(ii) after May 31, 1997.".

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

SEC. 1207. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting "July 1, 1998" and by striking "January 1, 1996" and inserting "January 1, 1997".

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

SEC. 1208. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

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

"(i) no tax shall be imposed by subsection (a) or (d)(1) during the period beginning on the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1997,".

Subtitle C—Provisions Relating to S Corporations

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

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

SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.

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

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

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

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

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

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

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

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

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

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

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

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

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

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

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

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

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

"(4) CROSS REFERENCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such an election as timely made for such taxable year (and paragraph (3) shall not apply).".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 1306. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) ELECTION TO TERMINATE YEAR.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year.".

SEC. 1307. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) a determination as defined in section 1313(a), or".

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.".

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year

but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply.".

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 1308. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) TREATMENT OF CERTAIN WHOLLY OWNED S CORPORATION SUBSIDIARIES.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this title—

"(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

"(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

"(B) QUALIFIED SUBCHAPTER S SUBSIDIARY.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

"(i) 100 percent of the stock of such corporation is held by the S corporation, and

"(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

"(C) TREATMENT OF TERMINATIONS OF QUALIFIED SUBCHAPTER S SUBSIDIARY STATUS.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock.

"(D) ELECTION AFTER TERMINATION.—If a corporation's status as a qualified subchapter S subsidiary terminates, such corporation (and any successor corporation) shall not be eligible to make—

"(i) an election under subparagraph (B)(ii) to be treated as a qualified subchapter S subsidiary, or

"(ii) an election under section 1362(a) to be treated as an S corporation,

before its 5th taxable year which begins after the 1st taxable year for which such termination was effective, unless the Secretary consents to such election.".

(c) CERTAIN DIVIDENDS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

"(F) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

"(8) An S corporation.".

SEC. 1309. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year.".

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year.".

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

SEC. 1310. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.".

SEC. 1311. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) IN GENERAL.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1996,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 1362(d), as amended by section 1308, is amended—

(A) by striking "SUBCHAPTER C" in the paragraph heading and inserting "ACCUMULATED",

(B) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d).".

*(C) The section heading for section 1375 is amended by striking "**SUBCHAPTER C**" and inserting "**ACCUMULATED**".*

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

SEC. 1312. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) AT-RISK LIMITATIONS.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a).".

SEC. 1313. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) IN GENERAL.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 1314. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking "other than a corporation" in the material preceding paragraph (1) and inserting "other than a C corporation".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 1237(a)(2) is amended by inserting "an S corporation which included the taxpayer as a shareholder," after "controlled by the taxpayer,".

SEC. 1315. FINANCIAL INSTITUTIONS.

Subparagraph (A) of section 1361(b)(2) (defining ineligible corporation), as redesignated by section 1308(a), is amended to read as follows:

"(A) a financial institution which uses the reserve method of accounting for bad debts described in section 585,".

SEC. 1316. CERTAIN EXEMPT ORGANIZATIONS ALLOWED TO BE SHAREHOLDERS.

(a) ELIGIBILITY TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Subparagraph (B) of section 1361(b)(1) (defining small business corporation) is amended to read as follows:

"(B) have as a shareholder a person (other than an estate, a trust described in subsection (c)(2), or an organization described in subsection (c)(7)) who is not an individual,".

(2) ELIGIBLE EXEMPT ORGANIZATIONS.—Section 1361(c) (relating to special rules for applying subsection (b)) is amended by adding at the end the following new paragraph:

"(7) CERTAIN EXEMPT ORGANIZATIONS PERMITTED AS SHAREHOLDERS.—For purposes of subsection (b)(1)(B), an organization which is—

"(A) described in section 401(a) or 501(c)(3), and

"(B) exempt from taxation under section 501(a),

may be a shareholder in an S corporation.".

(b) CONTRIBUTIONS OF S CORPORATION STOCK.—Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new sentence: "For purposes of applying this paragraph in the case of a charitable contribution of stock in an S corporation, rules similar to the rules of section 751 shall apply in determining whether gain on such stock would have been long-term capital gain if such stock were sold by the taxpayer.".

(c) TREATMENT OF INCOME.—Section 512 (relating to unrelated business taxable income), as amended by section 1113, is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES APPLICABLE TO S CORPORATIONS.—

"(1) IN GENERAL.—If an organization described in section 1361(c)(7) holds stock in an S corporation—

"(A) such interest shall be treated as an interest in an unrelated trade or business; and

"(B) notwithstanding any other provision of this part—

"(i) all items of income, loss, or deduction taken into account under section 1366(a), and

"(ii) any gain or loss on the disposition of the stock in the S corporation

shall be taken into account in computing the unrelated business taxable income of such organization.

"(2) BASIS REDUCTION.—Except as provided in regulations, for purposes of paragraph (1), the basis of any stock acquired by purchase (within the meaning of section 1012) shall be reduced by the amount of any dividends received by the organization with respect to the stock.".

(d) CERTAIN BENEFITS NOT APPLICABLE TO S CORPORATIONS.—

(1) CONTRIBUTION TO ESOPS.—Paragraph (9) of section 404(a) (relating to certain contributions to employee ownership plans) is amended by inserting at the end the following new subparagraph:

"(C) S CORPORATIONS.—This paragraph shall not apply to an S corporation.".

(2) DIVIDENDS ON EMPLOYER SECURITIES.—Paragraph (1) of section 404(k) (relating to deduction for dividends on certain employer securities) is amended by striking "a corporation" and inserting "a C corporation".

(3) EXCHANGE TREATMENT.—Subparagraph (A) of section 1042(c)(1) (defining qualified securities) is amended by striking "domestic corporation" and inserting "domestic C corporation".

(e) CONFORMING AMENDMENT.—Clause (i) of section 1361(e)(1)(A), as added by section 1302, is amended by striking "which holds a contingent interest and is not a potential current beneficiary".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

SEC. 1317. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1996.

(b) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1997, shall not be taken into account.

Subtitle D—Pension Simplification

CHAPTER 1—SIMPLIFIED DISTRIBUTION RULES

SEC. 1401. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.".

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' has the meaning given such term by section 402(e)(4)(D) (without regard to subclauses (I), (II), (III), and (IV) of clause (i) thereof).".

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) RETENTION OF CERTAIN TRANSITION RULES.—The amendments made by this section shall not apply to any distribution for which the taxpayer is eligible to elect the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. Notwithstanding the preceding sentence, individuals who elect such benefits after December 31, 1999, shall not be eligible for 5-year averaging under section 402(d) of the Internal Revenue Code of 1986 (as in effect immediately before such amendments).

SEC. 1402. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ", for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits".

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

SEC. 1403. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55 ...	360
More than 55 but not more than 60	310
More than 60 but not more than 65	260
More than 65 but not more than 70	210
More than 70	160.

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after the 90th day after the date of the enactment of this Act.

SEC. 1404. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

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

CHAPTER 2—INCREASED ACCESS TO RETIREMENT PLANS

Subchapter A—Simple Savings Plans

SEC. 1421. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan (as defined in section 7701(a)(37))—

"(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

"(iv) no contributions may be made other than contributions described in clause (i) or (iii).

"(B) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—

"(i) IN GENERAL.—An employer shall be treated as meeting the requirements of subparagraph (A)(iii) for any year if, in lieu of the contributions described in such clause, the employer elects to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

"(ii) COMPENSATION LIMITATION.—The compensation taken into account under clause (i) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

"(C) DEFINITIONS.—For purposes of this subsection—

"(i) ELIGIBLE EMPLOYER.—

"(I) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which had no more than 100 employees who received at least $5,000 of compensation from the employer for the preceding year.

"(II) 2-YEAR GRACE PERIOD.—An eligible employer who establishes and maintains a plan under this subsection for 1 or more years and who fails to be an eligible employer for any subsequent year shall be treated as an eligible employer for the 2 years following the last year the employer was an eligible employer. If such failure is due to any acquisition, disposition, or similar transaction involving an eligible employer, the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i).

"(ii) APPLICABLE PERCENTAGE.—

"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such prior year.

"(D) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1996, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes of this paragraph, rules similar to the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during any 2 preceding years, and

"(ii) are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i) or receive the nonelective contribution described in paragraph (2)(B).

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

"(A) an employer must—

"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

"(ii) make the matching contributions under paragraph (2)(A)(iii) or the nonelective contributions under paragraph (2)(B) not later than the date described in section 404(m)(2)(B),

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year (and the 60-day period before the first day such employee is eligible to participate), to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), the term 'compensation' means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(C) YEAR.—The term 'year' means the calendar year.

"(7) USE OF DESIGNATED FINANCIAL INSTITUTION.—A plan shall not be treated as failing to satisfy the requirements of this subsection or any other provision of this title merely because the employer makes all contributions to the individual retirement accounts or annuities of a designated trustee or issuer. The preceding sentence shall not apply unless each plan participant is notified in writing (either separately or as part of the notice under subsection (l)(2)(C)) that the participant's balance may be transferred without cost or penalty to another individual account or annuity in accordance with subsection (d)(3)(G).".

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).".

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:

"(vi) any simple retirement account (within the meaning of section 408(p)), or".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

"(2) TIMING.—

"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof).".

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).".

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in subsection (p)) unless—

"(i) it is paid into another simple retirement account, or

"(ii) in the case of any payment or distribution to which section 72(t)(6) does not apply, it is paid into an individual retirement plan.".

(C) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'.".

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.".

(5) REPORTING REQUIREMENTS.—

(A) Section 408(l) is amended by adding at the end the following new paragraph:

"(2) SIMPLE RETIREMENT ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).".

(B) Section 408(l) is amended by striking "An employer" and inserting the following:

"(1) IN GENERAL.—An employer".

(6) REPORTING REQUIREMENTS.—Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year.".

(7) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).".

(8) EMPLOYMENT TAXES.—

(A) Paragraph (5) of section 3121(a) is amended by striking "or" at the end of subparagraph (F), by inserting "or" at the end of subparagraph (G), and by adding at the end the following new subparagraph:

"(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,".

(B) Section 209(a)(4) of the Social Security Act is amended by inserting "; or (J) under an arrangement to which section 408(p) of such Code applies, other than any elective contributions under paragraph (2)(A)(i) thereof" before the semicolon at the end thereof.

(C) Paragraph (5) of section 3306(b) is amended by striking "or" at the end of subparagraph (F), by inserting "or" at the end of subparagraph (G), and by adding at the end the following new subparagraph:

"(H) under an arrangement to which section 408(p) applies, other than any elective contributions under paragraph (2)(A)(i) thereof,".

(D) Paragraph (12) of section 3401(a) is amended by adding the following new subparagraph:

"(D) under an arrangement to which section 408(p) applies; or".

(9) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a simple retirement account described in section 408(p).".

(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any elective employer contribution under section 408(p)(2)(A)(i).".

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any simple retirement account (within the meaning of section 408(p)).".

(c) REPEAL OF SALARY REDUCTION SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(6) is amended by adding at the end the following new subparagraph:

"(H) TERMINATION.—This paragraph shall not apply to years beginning after December 31, 1996. The preceding sentence shall not apply to a simplified employee pension if the terms of such pension, as in effect on December 31, 1996, provide that an employee may make the election described in subparagraph (A).".

(d) MODIFICATIONS OF ERISA.—

(1) REPORTING REQUIREMENTS.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SIMPLE RETIREMENT ACCOUNTS.—

"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986.

"(2) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of such Code shall provide to the employer maintaining the arrangement each year a description containing the following information:

"(A) The name and address of the employer and the trustee.

"(B) The requirements for eligibility for participation.

"(C) The benefits provided with respect to the arrangement.

"(D) The time and method of making elections with respect to the arrangement.

"(E) The procedures for, and effects of, withdrawals (including rollovers) from the arrangement.

"(3) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in section 408(p)(5)(C) of such Code may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in paragraph (2)."

(2) FIDUCIARY DUTIES.—Section 404(c) of such Act (29 U.S.C. 1104(c)) is amended by inserting "(1)" after "(c)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following new paragraph:

"(2) In the case of a simple retirement account established pursuant to a qualified salary reduction arrangement under section 408(p) of the Internal Revenue Code of 1986, a participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the assets in the account upon the earliest of—

"(A) an affirmative election among investment options with respect to the initial investment of any contribution,

"(B) a rollover to any other simple retirement account or individual retirement plan, or

"(C) one year after the simple retirement account is established.

No reports, other than those required under section 101(g), shall be required with respect to a simple retirement account established pursuant to such a qualified salary reduction arrangement.".

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

SEC. 1422. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

"(i) the contribution requirements of subparagraph (B),

"(ii) the exclusive plan requirements of subparagraph (C), and

"(iii) the vesting requirements of section 408(p)(3).

"(B) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement—

"(I) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

"(II) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

"(III) no other contributions may be made other than contributions described in subclause (I) or (II).

"(ii) EMPLOYER MAY ELECT 2-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clause (i)(II) for any year if, in lieu of the contributions described in such clause, the employer elects (pursuant to the terms of the arrangement) to make nonelective contributions of 2 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subparagraph for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

"(C) EXCLUSIVE PLAN REQUIREMENT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

"(D) DEFINITIONS AND SPECIAL RULE.—

"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which

is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

"(B) meets the exclusive plan requirements of subsection (k)(11)(C), and

"(C) meets the vesting requirements of section 408(p)(3).".

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

Subchapter B—Other Provisions

SEC. 1426. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) ELIGIBILITY OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.—

"(i) TAX-EXEMPTS ELIGIBLE.—Except as provided in clause (ii), any organization exempt from tax under this subtitle may include a qualified cash or deferred arrangement as part of a plan maintained by it.

"(ii) GOVERNMENTS INELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This clause shall not apply to a rural cooperative plan or to a plan of an employer described in clause (iii).

"(iii) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing may include a qualified cash or deferred arrangement as part of a plan maintained by the employer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 1427. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by the amount allowed as a deduction under subsection (a) to such spouse for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(2) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".

(3) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

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

CHAPTER 3—NONDISCRIMINATION PROVISIONS

SEC. 1431. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) for the preceding year—

"(i) had compensation from the employer in excess of $80,000, and

"(ii) if the employer elects the application of this clause for such preceding year, was in the top-paid group of employees for such preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.".

(b) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(c) CONFORMING AMENDMENTS.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (5), and (12) and by redesignating paragraphs (3), (4), (7), (8), (9), (10), and (11) as paragraphs (2) through (8), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(7)" and inserting "section 414(q)(4)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(8)" and inserting "section 414(q)(5)".

(D) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "subsection (q)(5)".

(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking "under paragraph (4), or the number of officers taken into account under paragraph (5)".

(2) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1996, except that in determining whether an employee is a highly compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996.

(2) FAMILY AGGREGATION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1432. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee).".

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

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

SEC. 1433. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by section 1422, is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the rate of matching contribution with respect to any elective contribution of a highly compensated employee at any rate of elective contribution is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the rate of any matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contributions increase, and

"(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) of this paragraph unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions) taken into account in determining whether the requirements of subparagraphs (B) and (C) of this paragraph are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by section 1422(b), is amended by redesignating paragraph (11) as paragraph (12) and by adding after paragraph (10) the following new paragraph:

"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

"(ii) meets the notice requirements of subsection (k)(12)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at any rate of an employee contribution or rate of elective deferral is not greater than that with respect to an employee who is not a highly compensated employee.".

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Section 401(k)(3)(A) is amended—

(A) by striking "such year" in clause (ii) and inserting "the plan year",

(B) by striking "for such plan year" in clause (ii) and inserting "for the preceding plan year", and

(C) by adding at the end the following new sentence: "An arrangement may apply clause (ii) by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employees",

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence:

"This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.".

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan (other than a successor plan), the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.".

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND EXCESS AGGREGATE CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1998.

(2) EXCEPTIONS.—The amendments made by subsections (c), (d), and (e) shall apply to years beginning after December 31, 1996.

SEC. 1434. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125 or 457.".

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(4), as redesignated by section 1431, is amended to read as follows:

"(4) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).".

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 1441. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".

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

SEC. 1442. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO 1986 CODE.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) AMENDMENTS TO ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1997, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1999.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 1443. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limitation of its application to profit-sharing or stock bonus plans).".

(b) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

"(i) any organization which—

"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

"(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof),".

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) PUBLIC UTILITY DISTRICTS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1996.

SEC. 1444. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.".

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.".

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m).".

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (C) of this paragraph and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.".

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.".

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to imply that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.

SEC. 1445. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).".

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

SEC. 1446. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).".

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

SEC. 1447. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with

subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election.".

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 1444(b)(2) (relating to governmental plans), is amended by adding at the end the following new paragraph:

"(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994, and any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500.".

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

SEC. 1448. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

"(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

"(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

"(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

"(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

"(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

"(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f).".

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting "except as provided in subsection (g)," before "which provides that".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of a plan in existence on the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before January 1, 1999.

SEC. 1449. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

"(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

"(i) the later of the date a plan amendment applying the amendments made by subsection (b) is adopted or made effective, or

"(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 before such earlier date shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994 (except that the modification made by section 1449(b) of the Small Business Job Protection Act of 1996 shall be taken into account), and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect).".

(b) MODIFICATION OF CERTAIN ASSUMPTIONS FOR ADJUSTING BENEFITS OF DEFINED BENEFIT PLANS FOR EARLY RETIREES.—Subparagraph (E) of section 415(b)(2) (relating to limitation on certain assumptions) is amended—

(1) by striking "Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C)," in clause (i) and inserting "For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),", and

(2) by striking "For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3)," in clause (ii) and inserting "For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(d) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767 of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 1450. MODIFICATIONS OF SECTION 403(b).

(a) MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED.—

(1) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) CONSTRUCTIVE RECEIPT.—Section 402(e)(3) is amended by inserting "or which is part of a salary reduction agreement under section 403(b)" after "section 401(k)(2))".

(3) EFFECTIVE DATE.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(2) ROLLOVERS.—Solely for purposes of applying section 403(b)(8) of such Code to a contract to which paragraph (1) applies, a qualified cash or deferred arrangement under section 401(k) of such Code shall be treated as if it were a plan or contract described in clause (ii) of section 403(b)(8)(A) of such Code.

(c) ELECTIVE DEFERRALS.—

(1) IN GENERAL.—Subparagraph (E) of section 403(b)(1) is amended to read as follows:

"(E) in the case of a contract purchased under a salary reduction agreement, the contract meets the requirements of section 401(a)(30),".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning after December 31, 1995, except a contract shall not be required to meet any change in any requirement by reason of such amendment before the 90th day after the date of the enactment of this Act.

SEC. 1451. SPECIAL RULES RELATING TO JOINT AND SURVIVOR ANNUITY EXPLANATIONS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 417(a) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULES RELATING TO TIME FOR WRITTEN EXPLANATION.—Notwithstanding any other provision of this subsection—

"(A) EXPLANATION MAY BE PROVIDED AFTER ANNUITY STARTING DATE.—

"(i) IN GENERAL.—A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting date. In any case to which this subparagraph applies, the applicable election period under paragraph (6) shall not end before the 30th day after the date on which such explanation is provided.

"(ii) REGULATORY AUTHORITY.—The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

"(B) WAIVER OF 30-DAY PERIOD.—A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided."

(b) AMENDMENT TO ERISA.—Section 205(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)) is amended by adding at the end the following new paragraph:

"(8) Notwithstanding any other provision of this subsection—

"(A)(i) A plan may provide the written explanation described in paragraph (3)(A) after the annuity starting date. In any case to which this subparagraph applies, the applicable election period under paragraph (7) shall not end before the 30th day after the date on which such explanation is provided.

"(ii) The Secretary may by regulations limit the application of clause (i), except that such regulations may not limit the period of time by which the annuity starting date precedes the provision of the written explanation other than by providing that the annuity starting date may not be earlier than termination of employment.

"(B) A plan may permit a participant to elect (with any applicable spousal consent) to waive any requirement that the written explanation be provided at least 30 days before the annuity

starting date (or to waive the 30-day requirement under subparagraph (A)) if the distribution commences more than 7 days after such explanation is provided."

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

SEC. 1452. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE; EXCESS DISTRIBUTIONS.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1996, and before January 1, 2000, and such distributions shall be treated as made first from amounts not described in subsection (f).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 415(a) is amended—

(A) by adding "or" at the end of subparagraph (A),

(B) by striking ", or" at the end of subparagraph (B) and inserting a period, and

(C) by striking subparagraph (C).

(2) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".

(3) Paragraph (1) of section 415(f) is amended by striking "subsections (b), (c), and (e)" and inserting "subsections (b) and (c)".

(4) Subsection (g) of section 415 is amended by striking "subsections (e) and (f)" in the last sentence and inserting "subsection (f)".

(5) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

"(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and".

(6) Clause (ii) of section 415(k)(2)(A) is amended by striking "subsections (c) and (e)" and inserting "subsection (c)".

(7) Section 416 is amended by striking subsection (h).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to limitation years beginning after December 31, 1999.

(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) shall apply to years beginning after December 31, 1996.

SEC. 1453. TAX ON PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 4975(a) is amended by striking "5 percent" and inserting "10 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 1454. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under primary direction or control by the recipient.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1996, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 1455. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) PENALTIES.—

(1) STATEMENTS.—Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.).".

(2) REPORTS.—Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting a comma, and by inserting after subparagraph (V) the following new subparagraphs:

"(W) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(X) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person.".

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking "the $10" and inserting "$100", and

(2) by striking "$5,000" and inserting "$50,000".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722.".

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(X).".

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(W).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1996.

SEC. 1456. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earning from self-employment) is amended by inserting ", but shall not include in such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excludable under section 107) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e)) after the individual retires" before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 1457. SAMPLE LANGUAGE FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS FORMS.

(a) DEVELOPMENT OF SAMPLE LANGUAGE.—Not later than January 1, 1997, the Secretary of the Treasury shall develop—

(1) sample language for inclusion in a form for the spousal consent required under section 417(a)(2) of the Internal Revenue Code of 1986 and section 205(c)(2) of the Employee Retirement Income Security Act of 1974 which—

(A) is written in a manner calculated to be understood by the average person, and

(B) discloses in plain form—

(i) whether the waiver to which the spouse consents is irrevocable, and

(ii) whether such waiver may be revoked by a qualified domestic relations order, and

(2) sample language for inclusion in a form for a qualified domestic relations order described in section 414(p)(1)(A) of such Code and section 206(d)(3)(B)(i) of such Act which—

(A) meets the requirements contained in such sections, and

(B) the provisions of which focus attention on the need to consider the treatment of any lump sum payment, qualified joint and survivor annuity, or qualified preretirement survivor annuity.

(b) PUBLICITY.—The Secretary of the Treasury shall include publicity for the sample language developed under subsection (a) in the pension outreach efforts undertaken by the Secretary.

SEC. 1458. TREATMENT OF LENGTH OF SERVICE AWARDS TO VOLUNTEERS PERFORMING FIRE FIGHTING OR PREVENTION SERVICES, EMERGENCY MEDICAL SERVICES, OR AMBULANCE SERVICES.

(a) IN GENERAL.—Paragraph (11) of section 457(e) (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended to read as follows:

"(11) CERTAIN PLANS EXCLUDED.—

"(A) IN GENERAL.—The following plans shall be treated as not providing for the deferral of compensation:

"(i) Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan.

"(ii) Any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by such volunteers.

"(B) SPECIAL RULES APPLICABLE TO LENGTH OF SERVICE AWARD PLANS.—

"(i) BONA FIDE VOLUNTEER.—An individual shall be treated as a bona fide volunteer for purposes of subparagraph (A)(ii) if the only compensation received by such individual for performing qualified services is in the form of—

"(I) reimbursement for (or a reasonable allowance for) reasonable expenses incurred in the performance of such services, or

"(II) reasonable benefits (including length of service awards), and nominal fees for such services, customarily paid by eligible employers in connection with the performance of such services by volunteers.

"(ii) LIMITATION ON ACCRUALS.—A plan shall not be treated as described in subparagraph (A)(ii) if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds $3,000.

"(C) QUALIFIED SERVICES.—For purposes of this paragraph, the term 'qualified services' means fire fighting and prevention services,

emergency medical services, and ambulance services.".

(b) EXEMPTION FROM SOCIAL SECURITY TAXES.—

(1) Subsection (a)(5) of section 3121, as amended by section 1421, is amended by striking "(or)" at the end of subparagraph (G), by inserting "or" at the end of subparagraph (H), and by adding at the end the following new subparagraph:

"(I) under a plan described in section 457(e)(11)(A)(ii) and maintained by an eligible employer (as defined in section 457(e)(1)).".

(2) Section 209(a)(4) of the Social Security Act is amended by inserting "; or (K) under a plan described in section 457(e)(11)(A)(ii) of the Internal Revenue Code of 1986 and maintained by an eligible employer (as defined in section 457(e)(1) of such Code)" before the semicolon at the end thereof.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to accruals of length of service awards after December 31, 1996.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to remuneration paid after December 31, 1996.

SEC. 1459. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION.

(a) CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards), as amended by section 1433(d)(1) of this Act, is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a cash or deferred arrangement meets the requirements of subparagraph (A)(i), the employer may, in determining whether the arrangement meets the requirements of subparagraph (A)(ii), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).".

(b) MATCHING CONTRIBUTIONS.—Paragraph (5) of section 401(m) (relating to employees taken into consideration) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a plan meets the requirements of section 410(b), the employer may, in determining whether the plan meets the requirements of paragraph (2), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

SEC. 1460. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS.

(a) IN GENERAL.—Section 401 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) is amended by adding at the end the following new subsection:

"(c)(1)(A) Not later than June 30, 1997, the Secretary shall issue proposed regulations to provide guidance for the purpose of determining, in cases where an insurer issues 1 or more policies to or for the benefit of an employee benefit plan (and such policies are supported by assets of such insurer's general account), which assets held by the insurer (other than plan assets held in its separate accounts) constitute assets of the plan for purposes of this part and section 4975 of the Internal Revenue Code of 1986 and to provide guidance with respect to the application of this title to the general account assets of insurers.

"(B) The proposed regulations under subparagraph (A) shall be subject to public notice and comment until September 30, 1997.

"(C) The Secretary shall issue final regulations providing the guidance described in subparagraph (A) not later than December 31, 1997.

"(D) Such regulations shall only apply with respect to policies which are issued by an insurer on or before December 31, 1998, to or for the benefit of an employee benefit plan which is supported by assets of such insurer's general account. With respect to policies issued on or before December 31, 1998, such regulations shall take effect at the end of the 18-month period following the date on which such regulations become final.

"(2) The Secretary shall ensure that the regulations issued under paragraph (1)—

"(A) are administratively feasible, and

"(B) protect the interests and rights of the plan and of its participants and beneficiaries (including meeting the requirements of paragraph (3)).

"(3) The regulations prescribed by the Secretary pursuant to paragraph (1) shall require, in connection with any policy issued by an insurer to or for the benefit of an employee benefit plan to the extent that the policy is not a guaranteed benefit policy (as defined in subsection (b)(2)(B))—

"(A) that a plan fiduciary totally independent of the insurer authorize the purchase of such policy (unless such purchase is a transaction exempt under section 408(b)(5)),

"(B) that the insurer describe (in such form and manner as shall be prescribed in such regulations), in annual reports and in policies issued to the policyholder after the date on which such regulations are issued in final form pursuant to paragraph (1)(C) —

"(i) a description of the method by which any income and expenses of the insurer's general account are allocated to the policy during the term of the policy and upon the termination of the policy, and

"(ii) for each report, the actual return to the plan under the policy and such other financial information as the Secretary may deem appropriate for the period covered by each such annual report,

"(C) that the insurer disclose to the plan fiduciary the extent to which alternative arrangements supported by assets of separate accounts of the insurer (which generally hold plan assets) are available, whether there is a right under the policy to transfer funds to a separate account and the terms governing any such right, and the extent to which support by assets of the insurer's general account and support by assets of separate accounts of the insurer might pose differing risks to the plan, and

"(D) that the insurer manage those assets of the insurer which are assets of such insurer's general account (irrespective of whether any such assets are plan assets) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, taking into account all obligations supported by such enterprise.

"(4) Compliance by the insurer with all requirements of the regulations issued by the Secretary pursuant to paragraph (1) shall be deemed compliance by such insurer with sections 404, 406, and 407 with respect to those assets of the insurer's general account which support a policy described in paragraph (3).

"(5)(A) Subject to subparagraph (B), any regulations issued under paragraph (1) shall not take effect before the date on which such regulations become final.

"(B) No person shall be subject to liability under this part or section 4975 of the Internal Revenue Code of 1986 for conduct which occurred before the date which is 18 months following the date described in subparagraph (A) on the basis of a claim that the assets of an insurer (other than plan assets held in a separate account) constitute assets of the plan, except—

"(i) as otherwise provided by the Secretary in regulations intended to prevent avoidance of the regulations issued under paragraph (1), or

"(ii) as provided in an action brought by the Secretary pursuant to paragraph (2) or (5) of section 502(a) for a breach of fiduciary responsibilities which would also constitute a violation of Federal or State criminal law.

The Secretary shall bring a cause of action described in clause (ii) if a participant, beneficiary, or fiduciary demonstrates to the satisfaction of the Secretary that a breach described in clause (ii) has occurred.

"(6) Nothing in this subsection shall preclude the application of any Federal criminal law.

"(7) For purposes of this subsection, the term 'policy' includes a contract.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on January 1, 1975.

(2) CIVIL ACTIONS.—The amendment made by this section shall not apply to any civil action commenced before November 7, 1995.

SEC. 1461. SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.

(a) IN GENERAL.—Section 414(e) (defining church plan) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.—

"(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

"(i) IN GENERAL.—An employee of a church or a convention or association of churches shall include a duly ordained, commissioned, or licensed minister of a church who, in connection with the exercise of his or her ministry—

"(I) is a self-employed individual (within the meaning of section 401(c)(1)(B)), or

"(II) is employed by an organization other than an organization described in section 501(c)(3).

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—

"(I) SELF-EMPLOYED.—A minister described in clause (i)(I) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(II) OTHERS.—A minister described in clause (i)(II) shall be treated as employed by an organization described in section 501(c)(3) and exempt from tax under section 501(a).

"(B) SPECIAL RULES FOR APPLYING SECTION 403(b) TO SELF-EMPLOYED MINISTERS.—In the case of a minister described in subparagraph (A)(i)(I)—

"(i) the minister's includible compensation under section 403(b)(3) shall be determined by reference to the minister's earned income (within the meaning of section 401(c)(2)) from such ministry rather than the amount of compensation which is received from an employer, and

"(ii) the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) with respect to such ministry shall be included for purposes of section 403(b)(4).

"(C) EFFECT ON NON-DENOMINATIONAL PLANS.—If a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of this section) and in the exercise of such ministry is employed by an employer not eligible to participate in such church plan, then such employer may exclude such minister from being treated as an employee of

such employer for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as 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)). The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of, and prevent the abuse of, this subparagraph.

"(D) COMPENSATION TAKEN INTO ACCOUNT ONLY ONCE.—If any compensation is taken into account in determining the amount of any contributions made to, or benefits to be provided under, any church plan, such compensation shall not also be taken into account in determining the amount of any contributions made to, or benefits to be provided under, any other stock bonus, pension, profit-sharing, or annuity plan which is not a church plan."

(b) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—Section 404(a) (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—In the case of contributions made by a minister described in section 414(e)(5) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions—

"(A) shall be treated as made to a trust which is exempt from tax under section 501(a) and which is part of a plan which is described in section 401(a), and

"(B) shall be deductible under this subsection to the extent such contributions do not exceed the limit on elective deferrals under section 402(g), the exclusion allowance under section 403(b)(2), or the limit on annual additions under section 415.

For purposes of this paragraph, all plans in which the minister is a participant shall be treated as one plan.".

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

SEC. 1462. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE FOR PRE-ERISA RULES FOR CHURCH PLANS.

(a) IN GENERAL.—Section 414(q) (defining highly compensated employee), as amended by section 1431(c)(1)(A) of this Act, is amended by adding at the end the following new paragraph:

"(7) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES UNDER PRE-ERISA RULES FOR CHURCH PLANS.—In the case of a church plan (as defined in subsection (e)), no employee shall be considered an officer, a person whose principal duties consist of supervising the work of other employees, or a highly compensated employee for any year unless such employee is a highly compensated employee under paragraph (1) for such year.".

(b) SAFEHARBOR AUTHORITY.—The Secretary of the Treasury may design nondiscrimination and coverage safe harbors for church plans.

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

SEC. 1463. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended by inserting ", or to the extent such credits are attributable to services performed as a foreign missionary (within the meaning of section 403(b)(2)(D)(iii))" before the end period.

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

SEC. 1464. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL.

(a) IN GENERAL.—Section 4971(f) (relating to failure to pay liquidity shortfall) is amended by adding at the end the following new paragraph:

"(4) WAIVER BY SECRETARY.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) the liquidity shortfall described in paragraph (1) was due to reasonable cause and not willful neglect, and

"(B) reasonable steps have been taken to remedy such liquidity shortfall,

the Secretary may waive all or part of the tax imposed by this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by clause (ii) of section 751(a)(9)(B) of the Retirement Protection Act of 1994 (108 Stat. 5020).

SEC. 1465. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this subtitle requires an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1998, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan or contract is operated in accordance with the requirements of such amendment, and

(2) such amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this section shall be applied by substituting "2000" for "1998".

Subtitle E—Foreign Simplification

SEC. 1501. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) IN GENERAL.—

(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking "; and" at the end of subparagraph (B) and inserting a period, and by adding "and" at the end of subparagraph (A).

(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 904(d)(3), as amended by section 1703(i)(1), is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(1) Paragraph (1) of section 956(b) is amended to read as follows:

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

"(A) the amount (not including a deficit) referred to in section 316(a)(1), and

"(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and by earnings and profits described in section 959(c)(1).".

(2) Paragraph (3) of section 956(b) is amended to read as follows:

"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

"(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.".

(3) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding "or" at the end of paragraph (1), by striking "or" at the end of paragraph (2), and by striking paragraph (3).

(4) Subsection (a) of section 959 is amended by striking "paragraphs (2) and (3)" in the last sentence and inserting "paragraph (2)".

(5) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:

"References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996.".

(6) Paragraph (1) of section 959(f) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3).".

(7) Paragraph (2) of section 959(f) is amended by striking "subparagraphs (B) and (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(8) Subsection (b) of section 989 is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(9) Paragraph (9) of section 1297(b) is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(10) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1297 are each amended by striking "or section 956A".

(11) Subparagraph (G) of section 904(d)(3) is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

Subtitle F—Revenue Offsets

PART I—GENERAL PROVISIONS

SEC. 1601. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—Except as provided in paragraph (3)—

"(A) ECONOMIC ACTIVITY CREDIT.—In the case of an existing credit claimant—

"(i) with respect to a possession other than Puerto Rico, and

"(ii) to which subsection (a)(4)(B) does not apply,

the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(B) SPECIAL RULE FOR REDUCED CREDIT.—

"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the credit determined under subsection (a)(1)(A) shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 1998.

"(ii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(C) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

"For economic activity credit for Puerto Rico, see section 30A.

"(3) ADDITIONAL RESTRICTED CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant—

"(i) the credit under subsection (a)(1)(A) shall be allowed for the period beginning with the first taxable year after the last taxable year to which subparagraph (A) or (B) of paragraph (2), whichever is appropriate, applied and ending with the last taxable year beginning before January 1, 2006, except that

"(ii) the aggregate amount of taxable income taken into account under subsection (a)(1)(A) for any such taxable year shall not exceed the adjusted base period income of such claimant.

"(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph.

"(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

"(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

"(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the sum of—

"(i) the possession income of such corporation for such base period year, plus

"(ii) such possession income multiplied by the inflation adjustment percentage for such base period year.

"(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means the percentage (if any) by which—

"(i) the CPI for 1995, exceeds

"(ii) the CPI for the calendar year in which the base period year for which the determination is being made ends.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

"(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

"(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1995;

"(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1994;

"(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1993;

"(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1992; and

"(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on October 13, 1991.

"(5) BASE PERIOD YEAR.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before October 14, 1995, determined by disregarding—

"(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

"(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

"(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

"(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before October 14, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

"(I) the term 'base period year' means the first taxable year ending on or after October 14, 1995, but

"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on September 30, 1995.

"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after October 14, 1995) having the greatest possession income.

"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means—

"(I) only the last taxable year of the corporation ending in calendar year 1992, or

"(II) a deemed taxable year which includes the first ten months of calendar year 1995.

"(ii) BASE PERIOD INCOME FOR 1995.—In determining the adjusted base period income of the corporation for the deemed taxable year under clause (i)(II), the possession income shall be annualized and shall be determined without regard to any extraordinary item.

"(iii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means, with respect to any possession, the income referred to in subsection (a)(1)(A) determined with respect to that possession. In no event shall possession income be treated as being less than zero.

"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe.

"(8) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to such claimant with respect to such applicable possession for taxable years beginning after December 31, 1995, and before January 1, 2006.

"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(9) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'existing credit claimant' means a corporation—

"(i)(I) which was actively conducting a trade or business in a possession on October 13, 1995, and

"(II) with respect to which an election under this section is in effect for the corporation's taxable year which includes October 13, 1995, or

"(ii) which acquired all of the assets of a trade or business of a corporation which—

"(I) satisfied the requirements of subclause (I) of clause (i) with respect to such trade or business, and

"(II) satisfied the requirements of subclause (II) of clause (i).

"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business (other than in an acquisition described in subparagraph (A)(ii)), such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

"(10) SEPARATE APPLICATION TO EACH POSSESSION.—For purposes of determining—

"(A) whether a taxpayer is an existing credit claimant, and

"(B) the amount of the credit allowed under this section,

this subsection (and so much of this section as relates to this subsection) shall be applied separately with respect to each possession.".

(b) ECONOMIC ACTIVITY CREDIT FOR PUERTO RICO.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

"SEC. 30A. PUERTO RICAN ECONOMIC ACTIVITY CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, if the conditions of both paragraph (1) and paragraph (2) of subsection (b) are satisfied with respect to a qualified domestic corporation, there shall be allowed as a

credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the taxable income, from sources without the United States, from—

"(A) the active conduct of a trade or business within Puerto Rico, or

"(B) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business.

In the case of any taxable year beginning after December 31, 2001, the aggregate amount of taxable income taken into account under the preceding sentence (and in applying subsection (d)) shall not exceed the adjusted base period income of such corporation, as determined in the same manner as under section 936(j).

"(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1), the term 'qualified domestic corporation' means a domestic corporation—

"(A) which is an existing credit claimant with respect to Puerto Rico, and

"(B) with respect to which section 936(a)(4)(B) does not apply for the taxable year.

"(3) SEPARATE APPLICATION.—For purposes of determining—

"(A) whether a taxpayer is an existing credit claimant with respect to Puerto Rico, and

"(B) the amount of the credit allowed under this section,

this section (and so much of section 936 as relates to this section) shall be applied separately with respect to Puerto Rico.

"(b) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in subsection (a) are—

"(1) 3-YEAR PERIOD.—If 80 percent or more of the gross income of the qualified domestic corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession (determined without regard to section 904(f)).

"(2) TRADE OR BUSINESS.—If 75 percent or more of the gross income of the qualified domestic corporation for such period or such part thereof was derived from the active conduct of a trade or business within a possession.

"(c) CREDIT NOT ALLOWED AGAINST CERTAIN TAXES.—The credit provided by subsection (a) shall not be allowed against the tax imposed by—

"(1) section 59A (relating to environmental tax),

"(2) section 531 (relating to the tax on accumulated earnings),

"(3) section 541 (relating to personal holding company tax), or

"(4) section 1351 (relating to recoveries of foreign expropriation losses).

"(d) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under subsection (a) for any taxable year shall not exceed the sum of the following amounts:

"(1) 60 percent of the sum of—

"(A) the aggregate amount of the qualified domestic corporation's qualified possession wages for such taxable year, plus

"(B) the allocable employee fringe benefit expenses of the qualified domestic corporation for such taxable year.

"(2) The sum of—

"(A) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

"(B) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

"(C) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

"(3) If the qualified domestic corporation does not have an election to use the method described in section 936(h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of the qualified possession income taxes for the taxable year allocable to nonsheltered income.

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of this title—

"(1) the provisions of section 936 (including any applicable election thereunder) shall apply in the same manner as if the credit under this section were a credit under section 936(a)(1)(A) for a domestic corporation to which section 936(a)(4)(A) applies,

"(2) the credit under this section shall be treated in the same manner as the credit under section 936, and

"(3) a corporation to which this section applies shall be treated in the same manner as if it were a corporation electing the application of section 936.

"(f) DEFINITIONS.—For purposes of this section, any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.

"(g) APPLICATION OF SECTION.—This section shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 55(c) is amended by striking "and the section 936 credit allowable under section 27(b)" and inserting ", the section 936 credit allowable under section 27(b), and the Puerto Rican economic activity credit under section 30A".

(B) Subclause (I) of section 56(g)(4)(C)(ii) is amended—

(i) by inserting "30A," before "936", and

(ii) by striking "and (i)" and inserting ", (i), and (j)".

(C) Clause (iii) of section 56(g)(4)(C) is amended by adding at the end the following new subclause:

"(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.".

(D) Subsection (b) of section 59 is amended by striking "section 936," and all that follows and inserting "section 30A or 936, alternative minimum taxable income shall not include any income with respect to which a credit is determined under section 30A or 936.".

(E) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 30A. Puerto Rican economic activity credit.".

(F)(i) The heading for subpart B of part IV of subchapter A of chapter 1 is amended to read as follows:

"Subpart B—Other Credits".

(ii) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart B and inserting the following new item:

"Subpart B. Other credits.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SPECIAL RULE FOR QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—The amendments made by this section shall not apply to qualified possession source investment income received or accrued before July 1, 1996, without regard to the taxable year in which received or accrued.

(3) SPECIAL TRANSITION RULE FOR PAYMENT OF ESTIMATED TAX INSTALLMENT.—In determining the amount of any installment due under section 6655 of the Internal Revenue Code of 1986 after the date of the enactment of this Act and before October 1, 1996, only ½ of any increase in tax (for the taxable year for which such installment is made) by reason of the amendments made by subsections (a) and (b) shall be taken into account. Any reduction in such installment by reason of the preceding sentence shall be recaptured by increasing the next required installment for such year by the amount of such reduction.

SEC. 1602. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.".

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

"(2) both such employer or plan administrator,".

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 133.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after the date of the enactment of this Act.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after the date of the enactment of this Act to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term "securities acquisition loan" includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

(3) EXCEPTION.—Any loan made pursuant to a binding written contract in effect before June 10, 1996, and at all times thereafter before such loan is made, shall be treated for purposes of paragraphs (1) and (2) as a loan made on or before the date of the enactment of this Act.

SEC. 1603. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

"(17) TREATMENT OF CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

"(I) such organization,

"(II) an affiliate of such organization which is exempt from tax under section 501(a), or

"(III) a director or officer of, or an individual who (directly or indirectly) performs services for, such organization or affiliate but only if the insurance covers primarily risks associated with the performance of services in connection with such organization or affiliate.

"(ii) AFFILIATE.—For purposes of this subparagraph—

"(I) IN GENERAL.—The determination as to whether an entity is an affiliate of an organization shall be made under rules similar to the rules of section 168(h)(4)(B).

"(II) SPECIAL RULE.—Two or more organizations (and any affiliates of such organizations) shall be treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or organizations described in section 170(b)(1)(A)(iii) and participate in an insurance arrangement that provides for any profits from such arrangement to be returned to the policyholders in their capacity as such.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

SEC. 1604. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) the income from the property to be taken into account in determining the depreciation deduction under such method shall be equal to the amount of income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income from such property)—

"(i) the actual income earned in connection with such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income to be earned in connection with such property for periods after the recomputation year and before the close of the 10th taxable year following the taxable year in which the property was placed in service,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal midterm rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which had a cost basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the 3d and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income earned in connection with the property for the period before the close of such 3d or 10th taxable year is within 10 percent of the income earned in connection with the property for such period which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is 1 or more episodes in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

"(C) SPECIAL RULES FOR FINANCIAL EXPLOITATION OF CHARACTERS, ETC.—For purposes of this subsection, in the case of television and motion picture films, the income from the property shall include income from the exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent that such income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related persons (within the meaning of section 267(b)) to the taxpayer.

"(D) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(E) DETERMINATIONS.—For purposes of paragraph (2), determinations of the amount of income earned in connection with any property shall be made in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(F) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

(3) UNDERPAYMENTS OF INCOME TAX.—No addition to tax shall be made under section 6662 of such Code as a result of the application of subsection (d) of that section (relating to substantial understatements of income tax) with respect to any underpayment of income tax for any taxable year ending before such date of enactment, to the extent such underpayment was created or increased by the amendments made by subsection (a).

SEC. 1605. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical

care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.".

(c) APPLICATION OF PRIOR LAW FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) APPLICATION OF PRIOR LAW IN CERTAIN CASES.—The phrase '(other than punitive damages)' shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 1606. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).".

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

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

SEC. 1607. EXTENSION AND PHASEDOWN OF LUXURY PASSENGER AUTOMOBILE TAX.

(a) EXTENSION.—Subsection (f) of section 4001 is amended by striking "1999" and inserting "2002".

(b) PHASEDOWN.—Section 4001 is amended by redesignating subsection (f) (as amended by subsection (a) of this section) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PHASEDOWN.—For sales occurring in calendar years after 1995 and before 2003, subsection (a) shall be applied by substituting for '10 percent' the percentage determined in accordance with the following table:

"If the calendar year is:	*The percentage is:*
1996	*9 percent*
1997	*8 percent*
1998	*7 percent*
1999	*6 percent*
2000	*5 percent*
2001	*4 percent*
2002	*3 percent.".*

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales occurring after the date which is 7 days after the date of the enactment of this Act.

SEC. 1608. TERMINATION OF FUTURE TAX-EXEMPT BOND FINANCING FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

(a) IN GENERAL.—Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

"(3) TERMINATION OF FUTURE FINANCING.—For purposes of this section, no bond may be issued as part of an issue described in subsection (a)(8) with respect to a facility for the local furnishing of electric energy or gas on or after the date of the enactment of this paragraph unless—

"(A) the facility will—

"(i) be used by a person who is engaged in the local furnishing of that energy source on January 1, 1997, and

"(ii) be used to provide service within the area served by such person on January 1, 1997, (or within a county or city any portion of which is within such area), or

"(B) the facility will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).

"(4) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING BY CERTAIN FURNISHERS.—

"(A) IN GENERAL.—In the case of a facility financed with bonds issued before the date of the enactment of this paragraph which would cease to be tax-exempt by reason of the failure to meet the local furnishing requirement of subsection (a)(8) as a result of a service area expansion, such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if the person engaged in such local furnishing by such facility makes an election described in subparagraph (B).

"(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person (or its predecessor in interest) agrees that—

"(i) such election is made with respect to all facilities for the local furnishing of electric energy or gas, or both, by such person,

"(ii) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to all such facilities of such person,

"(iii) any expansion of the service area—

"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

"(iv) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the election.

"(C) RELATED PERSONS.—For purposes of this paragraph, the term 'person' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.".

(b) NO INFERENCE WITH RESPECT TO OUTSTANDING BONDS.—The use of the term "person" in section 142(f)(3) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be construed to affect the tax-exempt status of interest on any bonds issued before the date of the enactment of this Act.

SEC. 1609. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended to read as follows:

"(A) The rate of tax specified in paragraph (1) shall be 4.3 cents per gallon—

"(i) after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

"(ii) after December 31, 1996.".

(2) Section 4081(d) is amended—

(A) by adding at the end the following new paragraph:

"(3) AVIATION GASOLINE.—After December 31, 1996, the rate of tax specified in subsection (a)(2)(A)(i) on aviation gasoline shall be 4.3 cents per gallon.", and

(B) by inserting "(other than the tax on aviation gasoline)" after "subsection (a)(2)(A)".

(3) Section 4041(c)(5) is amended by inserting ", and during the period beginning on the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1996" after "December 31, 1995".

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1996" and inserting "January 1, 1996, and to transportation beginning on or after the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996 and before January 1, 1997".

(c) TRANSFERS TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking "January 1, 1996" each place it appears and inserting "January 1, 1997".

(2) Paragraph (3) of section 9502(f) is amended to read as follows:

"(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate shall be zero with respect to—

"(A) taxes imposed after December 31, 1995, and before the date which is 7 calendar days after the date of the enactment of the Small Business Job Protection Act of 1996, and

"(B) taxes imposed after December 31, 1996.".

(3) Subsection (d) of section 9502 is amended by adding at the end the following new paragraph:

"(5) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF REFUNDS OF TAXES ON TRANSPORTATION BY AIR.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after December 31, 1995, under section 6402 (relating to authority to make credits or refunds) or section 6415 (relating to credits or refunds to persons who collected certain taxes) in respect of taxes under sections 4261 and 4271.".

(d) EXCISE TAX EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY AIR AMBULANCE.—Subsection (f) of section 4261 (relating to imposition of tax on transportation by air) is amended to read as follows:

"(f) EXEMPTION FOR AIR AMBULANCES PROVIDING CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation for the purpose of providing emergency medical services—

"(1) by helicopter, or

"(2) by a fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services.".

(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—Subsection (e) of section 4261 is amended by adding at the end the following new sentence: "In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(f) FLIGHT-BY-FLIGHT DETERMINATION OF AVAILABILITY FOR HIRE FOR AFFILIATED

GROUPS.—Section 4282 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) AVAILABILITY FOR HIRE.—For purposes of subsection (a), the determination of whether an aircraft is available for hire by persons who are not members of an affiliated group shall be made on a flight-by-flight basis."

(g) CONSOLIDATION OF TAXES ON AVIATION GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

"(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

"(ii) in the case of aviation gasoline, 19.3 cents per gallon, and".

(2) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) AVIATION GASOLINE.—On and after January 1, 1997, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon."

(3) REPEAL OF RETAIL LEVEL TAX.—

(A) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(B) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(k) is amended by adding "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).

(B) Paragraph (1) of section 4081(d) is amended by striking "each rate of tax specified in subsection (a)(2)(A)" and inserting "the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)".

(C) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(D) Paragraph (2) of section 9502(b) is amended by striking "14 cents" and inserting "15 cents".

(h) FLOOR STOCKS TAXES ON AVIATION FUEL.—

(1) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before the tax-increase date described in paragraph (3)(A)(i) and which is held on such date by any person, there is hereby imposed a floor stocks tax of 17.5 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on a tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) with respect to any tax-increase date shall be paid on or before the first day of the 7th month beginning after such tax-increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term "tax-increase date" means the date which is 7 calendar days after the date of the enactment of this Act.

(B) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4093 of such Code.

(C) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(D) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person on any tax-increase date exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased on or after such tax-increase date for such use.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on any tax-increase date by any person if the aggregate amount of aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 7th calendar day after the date of the enactment of this Act, except that the amendments made by subsection (b) shall not apply to any amount paid before such date.

SEC. 1610. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

"(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

"(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after the date of the enactment of this Act.

SEC. 1611. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.".

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

SEC. 1612. 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 of 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,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(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), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts 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,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) 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, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—Except as provided in paragraph (3), 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 by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

(3) LIMITATION ON LOSS RECOGNITION AND ON DEDUCTION FOR RESERVE INCREASES.—

(A) LIMITATION ON LOSS RECOGNITION.—

(i) IN GENERAL.—The aggregate loss recognized by reason of the application of section 481 of the Internal Revenue Code of 1986 with respect to section 817A(b) of such Code (as added by this section) for the first taxable year of the taxpayer beginning after December 31, 1995, shall not exceed the amount included in the taxpayer's gross income for such year by reason of the excess (if any) of—

(I) the amount of life insurance reserves as of the close of the prior taxable year, over

(II) the amount of such reserves as of the beginning of such first taxable year,

to the extent such excess is attributable to subsection (a) of such section 817A. Notwithstanding the preceding sentence, the adjusted basis of each segregated asset shall be determined as if all such losses were recognized.

(ii) DISALLOWED LOSS ALLOWED OVER PERIOD.—The amount of the loss which is not allowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(B) LIMITATION ON DEDUCTION FOR INCREASE IN RESERVES.—

(i) IN GENERAL.—The deduction allowed for the first taxable year of the taxpayer beginning after December 31, 1995, by reason of the application of section 481 of such Code with respect to section 817A(a) of such Code (as added by this section) shall not exceed the aggregate built-in gain recognized by reason of the application of such section 481 with respect to section 817A(b) of such Code (as added by this section) for such first taxable year.

(ii) DISALLOWED DEDUCTION ALLOWED OVER PERIOD.—The amount of the deduction which is disallowed under clause (i) shall be allowed ratably over the period of 7 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

(iii) BUILT-IN GAIN.—For purposes of this subparagraph, the built-in gain on an asset is the amount equal to the excess of—

(I) the fair market value of the asset as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1995, over

(II) the adjusted basis of such asset as of such time.

SEC. 1613. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting "except as provided in subsection (c)," before "the term".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after June 12, 1996.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5).".

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

"Water utility property ..... 25 years".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

"(B) any municipal sewer.".

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after June 12, 1996, other than property placed in service pursuant to a binding contract in effect before June 10, 1996, and at all times thereafter before the property is placed in service.

SEC. 1614. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

"(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

"(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

"(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

"(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

"(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

"(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

"(v) such transferee corporation is not exempt from tax under this chapter.

"(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(C)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

"(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

"(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

"(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

"(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

"(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

"(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

"(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

"(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

"(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

"(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

"(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

"(i) for services performed in connection with such transferee corporation, or

"(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

"(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

"(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

"(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

"(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary.".

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

SEC. 1615. CERTAIN TAX BENEFITS DENIED TO INDIVIDUALS FAILING TO PROVIDE TAXPAYER IDENTIFICATION NUMBERS.

(a) PERSONAL EXEMPTION.—

(1) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end the following new subsection:

"(e) IDENTIFYING INFORMATION REQUIRED.—No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 6109 is repealed.

(B) Section 6724(d)(3) is amended by adding "and" at the end of subparagraph (C), by striking subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(b) DEPENDENT CARE CREDIT.—Subsection (e) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

"(10) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFYING INDIVIDUALS.—No credit shall be allowed under this section with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors), as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended by striking "and' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by inserting at the end the following new subparagraph:

"(H) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions).".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is on or after the 30th day after the date of the enactment of this Act.

(2) SPECIAL RULE FOR 1995 AND 1996.—In the case of returns for taxable years beginning in 1995 or 1996, a taxpayer shall not be required by the amendments made by this section to provide a taxpayer identification number for a child who is born after October 31, 1995, in the case of a taxable year beginning in 1995 or November 30, 1996, in the case of a taxable year beginning in 1996.

SEC. 1616. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been 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(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before January 1, 1996, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUT-OFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence: "Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) The second sentence of section 593(e)(1) is amended by striking "the association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(D) The third sentence of section 593(e)(1) is amended by striking "an association" and inserting "a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(E) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect."

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3), (5), and (6) as paragraphs (2), (3), and (4), respectively,

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period, and

(D) by striking the last sentence of paragraph (4) (as so redesignated).

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7)(B).—The amendments made by subsection (b)(7)(B) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

SEC. 1617. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand—" and all that follows and inserting "energy demand with respect to a dwelling unit."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

"(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure."

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking "AND SPECIAL RULES" in the paragraph heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1996, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

PART II—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 1621. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

"Sec. 860H. Taxation of a FASIT; other general rules.

"Sec. 860I. Gain recognition on contributions to a FASIT and in other cases.

"Sec. 860J. Non-FASIT losses not to offset certain FASIT inclusions.

"Sec. 860K. Treatment of transfers of high-yield interests to disqualified holders.

"Sec. 860L. Definitions and other special rules.

"SEC. 860H. TAXATION OF A FASIT; OTHER GENERAL RULES.

"(a) TAXATION OF FASIT.—A FASIT as such shall not be subject to taxation under this subtitle (and shall not be treated as a trust, partnership, corporation, or taxable mortgage pool).

"(b) TAXATION OF HOLDER OF OWNERSHIP INTEREST.—In determining the taxable income of the holder of the ownership interest in a FASIT—

"(1) all assets, liabilities, and items of income, gain, deduction, loss, and credit of a FASIT shall be treated as assets, liabilities, and such items (as the case may be) of such holder,

"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied under an accrual method of accounting in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to each debt instrument of the FASIT,

"(3) there shall not be taken into account any item of income, gain, or deduction allocable to a prohibited transaction, and

"(4) interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by such holder, be treated as ordinary income.

"(c) TREATMENT OF REGULAR INTERESTS.—For purposes of this title—

"(1) a regular interest in a FASIT, if not otherwise a debt instrument, shall be treated as a debt instrument,

"(2) section 163(e)(5) shall not apply to such an interest, and

"(3) amounts includible in gross income with respect to such an interest shall be determined under an accrual method of accounting.

"SEC. 860I. GAIN RECOGNITION ON CONTRIBUTIONS TO A FASIT AND IN OTHER CASES.

"(a) TREATMENT OF PROPERTY ACQUIRED BY FASIT.—

"(1) PROPERTY ACQUIRED FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—If property is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT (or by a related person) gain (if any) shall be recognized to such holder (or person) in an amount equal to the excess (if any) of such property's value under subsection (d) on the date of such sale or contribution over its adjusted basis on such date.

"(2) PROPERTY ACQUIRED OTHER THAN FROM HOLDER OF OWNERSHIP INTEREST OR RELATED PERSON.—Property which is acquired by a FASIT other than in a transaction to which paragraph (1) applies shall be treated—

"(A) as having been acquired by the holder of the ownership interest in the FASIT for an amount equal to the FASIT's cost of acquiring such property, and

"(B) as having been sold by such holder to the FASIT at its value under subsection (d) on such date.

"(b) GAIN RECOGNITION ON PROPERTY OUTSIDE FASIT WHICH SUPPORTS REGULAR INTERESTS.—If property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) supports any regular interest in such FASIT—

"(1) gain shall be recognized to such holder (or person) in the same manner as if such holder (or person) had sold such property at its value under subsection (d) on the earliest date such property supports such an interest, and

"(2) such property shall be treated as held by such FASIT for purposes of this part.

"(c) DEFERRAL OF GAIN RECOGNITION.—The Secretary may prescribe regulations which—

"(1) provide that gain otherwise recognized under subsection (a) or (b) shall not be recognized before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or of any person related to such holder), and

"(2) provide such adjustments to the other provisions of this part to the extent appropriate in the context of the treatment provided under paragraph (1).

"(d) VALUATION.—For purposes of this section—

"(1) IN GENERAL.—The value of any property under this subsection shall be—

"(A) in the case of a debt instrument which is not traded on an established securities market, the sum of the present values of the reasonably expected payments under such instrument determined (in the manner provided by regulations prescribed by the Secretary)—

"(i) as of the date of the event resulting in the gain recognition under this section, and

"(ii) by using a discount rate equal to 120 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually, and

"(B) in the case of any other property, its fair market value.

"(2) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of paragraph (1)—

"(A) each extension of credit (other than the accrual of interest) on a revolving loan account shall be treated as a separate debt instrument, and

"(B) payments on such extensions of credit having substantially the same terms shall be applied to such extensions beginning with the earliest such extension.

"(e) SPECIAL RULES.—

"(1) NONRECOGNITION RULES NOT TO APPLY.—Gain required to be recognized under this section shall be recognized notwithstanding any other provision of this subtitle.

"(2) BASIS ADJUSTMENTS.—The basis of any property on which gain is recognized under this section shall be increased by the amount of gain so recognized.

"SEC. 860J. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or any high-yield interest in a FASIT for any taxable year shall in no event be less than the sum of—

"(1) such holder's taxable income determined solely with respect to such interests (including gains and losses from sales and exchanges of such interests), and

"(2) the excess inclusion (if any) under section 860E(a)(1) for such taxable year.

"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

"(2) the alternative minimum taxable income of any holder of the ownership interest or a high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"(d) AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this section.

"SEC. 860K. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

"(a) GENERAL RULE.—In the case of any high-yield interest which is held by a disqualified holder—

"(1) the gross income of such holder shall not include any income (other than gain) attributable to such interest, and

"(2) amounts not includible in the gross income of such holder by reason of paragraph (1) shall be included (at the time otherwise includible under paragraph (1)) in the gross income of the most recent holder of such interest which is not a disqualified holder.

"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of the inclusion in gross income under subsection (a).

"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than—

"(1) an eligible corporation (as defined in section 860L(a)(2)), or

"(2) a FASIT.

"(d) TREATMENT OF INTERESTS HELD BY SECURITIES DEALERS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

"(2) CHANGE IN DEALER STATUS.—

"(A) IN GENERAL.—In the case of a dealer in securities which is not an eligible corporation (as defined in section 860L(a)(2)), if—

"(i) such dealer ceases to be a dealer in securities, or

"(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

"(e) TREATMENT OF HIGH-YIELD INTERESTS IN PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If a pass-thru entity (as defined in section 860E(e)(6)) issues a debt or equity interest—

"(A) which is supported by any regular interest in a FASIT, and

"(B) which has an original yield to maturity which is greater than each of—

"(i) the sum determined under clauses (i) and (ii) of section 163(i)(1)(B) with respect to such debt or equity interest, and

"(ii) the yield to maturity to such entity on such regular interest (determined as of the date such entity acquired such interest),

there is hereby imposed on the pass-thru entity a tax (in addition to other taxes) equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of the holder of such debt or equity interest which is properly attributable to such regular interest. For purposes of the preceding sentence, the yield to maturity of any equity interest shall be determined under regulations prescribed by the Secretary.

"(2) EXCEPTION.—Paragraph (1) shall not apply to arrangements not having as a principal purpose the avoidance of the purposes of this subsection.

"SEC. 860L. DEFINITIONS AND OTHER SPECIAL RULES.

"(a) FASIT.—

"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—

"(A) for which an election to be treated as a FASIT applies for the taxable year,

"(B) all of the interests in which are regular interests or the ownership interest,

"(C) which has only 1 ownership interest and such ownership interest is held directly by an eligible corporation,

"(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which (including assets treated as held by the entity under section 860I(b)(2)) consist of permitted assets, and

"(E) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

"(A) a corporation which is exempt from, or is not subject to, tax under this chapter,

"(B) an entity described in section 851(a) or 856(a),

"(C) a REMIC, and

"(D) an organization to which part I of subchapter T applies.

"(3) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(4) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT after the date of such ceasation.

"(5) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

"(6) PERMITTED ASSETS NOT TREATED AS INTEREST IN FASIT.—Except as provided in regulations prescribed by the Secretary, any asset which is a permitted asset at the time acquired by a FASIT shall not be treated at any time as an interest in such FASIT.

"(b) INTERESTS IN FASIT.—For purposes of this part—

"(1) REGULAR INTEREST.—

"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT after the startup date with fixed terms and which is designated as a regular interest if—

"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

"(ii) interest payments (or other similar amounts), if any, with respect to such interest are determined based on a fixed rate, or, except as otherwise provided by the Secretary, at a variable rate permitted under section 860G(a)(1)(B)(i),

"(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

"(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

"(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

An interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

"(B) HIGH-YIELD INTERESTS.—

"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for—

"(I) failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof, or

"(II) failing to meet the requirement of clause (ii) thereof but only if interest payments (or other similar amounts), if any, with respect to such interest consist of a specified portion of the interest payments on permitted assets and such portion does not vary during the period such interest is outstanding.

"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT after the startup day which is designated as an ownership interest and which is not a regular interest.

"(c) PERMITTED ASSETS.—For purposes of this part—

"(1) IN GENERAL.—The term 'permitted asset' means—

"(A) cash or cash equivalents,

"(B) any debt instrument (as defined in section 1275(a)(1)) under which interest payments (or other similar amounts), if any, at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B),

"(C) foreclosure property,

"(D) any asset—

"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument permitted by the Secretary, and

"(ii) which is reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT,

"(E) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D),

"(F) any regular interest in another FASIT, and

"(G) any regular interest in a REMIC.

"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument. The preceding sentence shall not apply to cash equivalents and to any other investment specified in regulations prescribed by the Secretary.

"(3) FORECLOSURE PROPERTY.—

"(A) IN GENERAL.—The term 'foreclosure property' means property—

"(i) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if such property were real property acquired by a real estate investment trust, and

"(ii) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(B) AUTHORITY TO REDUCE GRACE PERIOD.—In the case of property other than real property and other than personal property incident to real property, the Secretary may by regulation reduce for purposes of subparagraph (A) the periods otherwise applicable under paragraphs (2) and (3) of section 856(e).

"(d) STARTUP DAY.—For purposes of this part—

"(1) IN GENERAL.—The term 'startup day' means the date designated in the election under subsection (a)(3) as the startup day of the FASIT. Such day shall be the beginning of the first taxable year of the FASIT.

"(2) TREATMENT OF PROPERTY HELD ON STARTUP DAY.—All property held (or treated as held under section 860I(c)(2)) by an entity as of the startup day shall be treated as contributed to such entity on such day by the holder of the ownership interest in such entity.

"(e) TAX ON PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions. Such tax shall be paid by the holder of the ownership interest in the FASIT.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

"(A) the receipt of any income derived from any asset that is not a permitted asset,

"(B) except as provided in paragraph (3), the disposition of any permitted asset,

"(C) the receipt of any income derived from any loan originated by the FASIT, and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce overcollateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

"(2) SECTION 475.—Except as provided by the Secretary by regulations, if any security which is sold or contributed to a FASIT by the holder of the ownership interest in such FASIT was required to be marked-to-market under section 475 by such holder, section 475 shall continue to apply to such security; except that in applying section 475 while such security is held by the FASIT, the fair market value of such security for purposes of section 475 shall not be less than its value under section 860I(d).

"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraph:

"(O) section 860K (relating to treatment of transfers of high-yield interests to disqualified holders).".

(2) Paragraph (6) of section 56(g) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking "or a REMIC to which part IV of subchapter M applies" and inserting "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".

(4) Paragraph (1) of section 582(c) is amended by inserting ", and any regular interest in a FASIT," after "REMIC".

(5) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: "The principles of the preceding provisions of this subparagraph shall apply to regular interests in a FASIT.".

(6) Paragraph (3) of section 860G(a) 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 inserting after subparagraph (C) the following new subparagraph:

"(D) any regular interest in a FASIT which is transferred to, or purchased by, the REMIC as described in clauses (i) and (ii) of subparagraph (A) but only if 95 percent or more of the value of the assets of such FASIT is at all times attributable to obligations described in subparagraph (A) (without regard to such clauses).".

(7) Subparagraph (C) of section 1202(e)(4) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(8) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

"(xi) any regular or residual interest in a REMIC, and any regular interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.".

(9) Subparagraph (A) of section 7701(i)(2) is amended by inserting "or a FASIT" after "a REMIC".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

"Part V. Financial asset securitization investment trusts.".

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

(e) TREATMENT OF EXISTING SECURITIZATION ENTITIES.—

(1) IN GENERAL.—In the case of the holder of the ownership interest in a pre-effective date FASIT—

(A) gain shall not be recognized under section 860L(d)(2) of the Internal Revenue Code of 1986 on property deemed contributed to the FASIT, and

(B) gain shall not be recognized under section 860I of such Code on property contributed to such FASIT,

until such property (or portion thereof) ceases to be properly allocable to a pre-FASIT interest.

(2) ALLOCATION OF PROPERTY TO PRE-FASIT INTEREST.—For purposes of paragraph (1), property shall be allocated to a pre-FASIT interest in such manner as the Secretary of the Treasury may prescribe, except that all property in a FASIT shall be treated as properly allocable to pre-FASIT interests if the fair market value of all such property does not exceed 107 percent of the aggregate principal amount of all outstanding pre-FASIT interests.

(3) DEFINITIONS.—For purposes of this subsection—

(A) PRE-EFFECTIVE DATE FASIT.—The term "pre-effective date FASIT" means any FASIT if the entity (with respect to which the election under section 860L(a)(3) of such Code was made) is in existence on August 31, 1997.

(B) PRE-FASIT INTEREST.—The term "pre-FASIT interest" means any interest in the entity referred to in subparagraph (A) which was issued before the startup day (other than any interest held by the holder of the ownership interest in the FASIT).

Subtitle G—Technical Corrections

SEC. 1701. COORDINATION WITH OTHER SUBTITLES.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

SEC. 1702. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO SUBTITLE A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(b) AMENDMENTS RELATED TO SUBTITLE B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2)(A) Subparagraph (B) of section 4093(c)(2), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l), as in effect before the amendments made by the Revenue Reconciliation Act of 1993, is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(3) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(4) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(5) Subsection (c) of section 5041 is amended by striking paragraph (6) and by inserting the following new paragraphs:

"(6) CREDIT FOR TRANSFEREE IN BOND.—If—

"(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

"(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the 'transferee') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

"(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

"(7) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

"(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.".

(6) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(f),".

(7) Section 5354 is amended by inserting "(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))" after "any one time".

(c) AMENDMENTS RELATED TO SUBTITLE C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraphs (I) and (J) as subparagraphs (H) and (I), respectively.

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xii), and

(B) by striking the period at the end of clause (xiii) and inserting ", or".

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections 56 and 902, and subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates.".

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new flush sentence:

"The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary.".

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(2) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(e) AMENDMENTS RELATED TO SUBTITLE E.—

(1)(A) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).".

(B) For purposes of applying sections 56(g)(1) and 56(g)(3) of the Internal Revenue Code of 1986 with respect to taxable years beginning in 1991 and 1992, the reference in such sections to the alternative tax net operating loss deduction shall be treated as including a reference to the deduction under section 56(h) of such Code as in effect before the amendments made by section 1915 of the Energy Policy Act of 1992.

(2) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(3) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(4) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(5) The amendment made by section 1913(b)(2)(C)(i) of the Energy Policy Act of 1992 shall apply to taxable years beginning after December 31, 1990.

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section.".

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701 (d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3) (B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(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 the first calendar year ending after the date of enactment.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO 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 (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

"Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3)).".

(C) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C)(ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended by striking "in a trade or business" and inserting "a trade or business".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subparagraph (E) of section 1367(a)(2) is amended by striking "section 613A(c)(13)(B)" and inserting "section 613A(c)(11)(B)".

(15) Subparagraph (B) of section 460(e)(6) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(16) Subparagraph (C) of section 172(h)(4) is amended by striking "subsection (b)(1)(M)" and inserting "subsection (b)(1)(E)".

(17) Section 6503 is amended—

(A) by redesignating the subsection relating to extension in case of certain summonses as subsection (j), and

(B) by redesignating the subsection relating to cross references as subsection (k).

(18) Paragraph (4) of section 1250(e) is hereby repealed.

(19) Paragraph (1) of section 179(d) is amended by adding at the end the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units.".

"(i) EFFECTIVE DATE.—Except as otherwise expressly provided, 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. 1703. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1993.

(a) AMENDMENT RELATED TO SECTION 13114.—Paragraph (2) of section 1044(c) is amended to read as follows:

"(2) PURCHASE.—The taxpayer shall be considered to have purchased any property if, but for subsection (d), the unadjusted basis of such property would be its cost within the meaning of section 1012.".

(b) AMENDMENTS RELATED TO SECTION 13142.—

(1) Subparagraph (B) of section 13142(b)(6) of the Revenue Reconciliation Act of 1993 is amended to read as follows:

"(B) FULL-TIME STUDENTS, WAIVER AUTHORITY, AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (2), (3), and (4) shall take effect on the date of the enactment of this Act.".

(2) Subparagraph (C) of section 13142(b)(6) of such Act is amended by striking "paragraph (2)" and inserting "paragraph (5)".

(c) AMENDMENT RELATED TO SECTION 13161.—

(1) IN GENERAL.—Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—The $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) AMENDMENT RELATED TO SECTION 13201.—Clause (ii) of section 135(b)(2)(B) is amended by inserting before the period at the end thereof the following: ", determined by substituting 'calendar year 1989' for 'calendar year 1992' in subparagraph (B) thereof".

(e) AMENDMENTS RELATED TO SECTION 13203.—Subsection (a) of section 59 is amended—

(1) by striking "the amount determined under section 55(b)(1)(A)" in paragraph (1)(A) and (2)(A)(i) and inserting "the pre-credit tentative minimum tax",

(2) by striking "specified in section 55(b)(1)(A)" in paragraph (1)(C) and inserting "specified in subparagraph (A)(i) or (B)(i) of section 55(b)(1) (whichever applies)",

(3) by striking "which would be determined under section 55(b)(1)(A)" in paragraph (2)(A)(ii) and inserting "which would be the pre-credit tentative minimum tax", and

(4) by adding at the end thereof the following new paragraph:

"(3) PRE-CREDIT TENTATIVE MINIMUM TAX.—For purposes of this subsection, the term 'pre-credit tentative minimum tax' means—

"(A) in the case of a taxpayer other than a corporation, the amount determined under the first sentence of section 55(b)(1)(A)(i), or

"(B) in the case of a corporation, the amount determined under section 55(b)(1)(B)(i).".

(f) AMENDMENT RELATED TO SECTION 13221.—Sections 1201(a) and 1561(a) are each amended by striking "last sentence" each place it appears and inserting "last 2 sentences".

(g) AMENDMENTS RELATED TO SECTION 13222.—

(1) Subparagraph (B) of section 6033(e)(1) is amended by adding at the end thereof the following new clause:

"(iii) COORDINATION WITH SECTION 527(f).—This subsection shall not apply to any amount

on which tax is imposed by reason of section 527(f).".

(2) Clause (i) of section 6033(e)(1)(B) is amended by striking "this subtitle" and inserting "section 501".

(h) AMENDMENT RELATED TO SECTION 13225.—Paragraph (3) of section 6655(g) is amended by striking all that follows "'3rd month'" in the sentence following subparagraph (C) and inserting ", subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' in clause (i)(I), the election under clause (i) of subsection (e)(2)(C) may be made separately for each installment, and clause (ii) of subsection (e)(2)(C) shall not apply.".

(i) AMENDMENTS RELATED TO SECTION 13231.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking "section 951(a)(1)(B)" and inserting "subparagraph (B) or (C) of section 951(a)(1)".

(2) Paragraph (1) of section 956A(b) is amended to read as follows:

"(1) the amount (not including a deficit) referred to in section 316(a)(1) to the extent such amount was accumulated in prior taxable years beginning after September 30, 1993, and".

(3) Subsection (f) of section 956A is amended by inserting before the period at the end thereof: "and regulations coordinating the provisions of subsections (c)(3)(A) and (d)".

(4) Subsection (b) of section 958 is amended by striking "956(b)(2)" each place it appears and inserting "956(c)(2)".

(5)(A) Subparagraph (A) of section 1297(d)(2) is amended by striking "The adjusted basis of any asset" and inserting "The amount taken into account under section 1296(a)(2) with respect to any asset".

(B) The paragraph heading of paragraph (2) of section 1297(d) is amended to read as follows:

"(2) AMOUNT TAKEN INTO ACCOUNT.—".

(6) Subsection (e) of section 1297 is amended by inserting "For purposes of this part—" after the subsection heading.

(j) AMENDMENT RELATED TO SECTION 13241.—Subparagraph (B) of section 40(e)(1) is amended to read as follows:

"(B) for any period before January 1, 2001, during which the rates of tax under section 4081(a)(2)(A) are 4.3 cents per gallon.".

(k) AMENDMENT RELATED TO SECTION 13242.—Paragraph (4) of section 6427(f) is amended by striking "1995" and inserting "1999".

(l) AMENDMENT RELATED TO SECTION 13261.—Clause (iii) of section 13261(g)(2)(A) of the Revenue Reconciliation Act of 1993 is amended by striking "by the taxpayer" and inserting "by the taxpayer or a related person".

(m) AMENDMENT RELATED TO SECTION 13301.—Subparagraph (B) of section 1397B(d)(5) is amended by striking "preceding".

(n) CLERICAL AMENDMENTS.—

(1) Subsection (d) of section 39 is amended—

(A) by striking "45" in the heading of paragraph (5) and inserting "45A", and

(B) by striking "45" in the heading of paragraph (6) and inserting "45B".

(2) Subparagraph (A) of section 108(d)(9) is amended by striking "paragraph (3)(B)" and inserting "paragraph (3)(C)".

(3) Subparagraph (C) of section 143(d)(2) is amended by striking the period at the end thereof and inserting a comma.

(4) Clause (ii) of section 163(j)(6)(E) is amended by striking "which is a" and inserting "which is".

(5) Subparagraph (A) of section 1017(b)(4) is amended by striking "subsection (b)(2)(D)" and inserting "subsection (b)(2)(E)".

(6) So much of section 1245(a)(3) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) SECTION 1245 PROPERTY.—For purposes of this section, the term 'section 1245 property' means any property which is or has been property of a character subject to the allowance for depreciation provided in section 167 and is either—".

(7) Paragraph (2) of section 1394(e) is amended—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" and inserting "(B)".

(8) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking "or 51(j)" and inserting "45B, or 51(j)".

(9)(A) The section 6714 added by section 13242(b)(1) of the Revenue Reconciliation Act of 1993 is hereby redesignated as section 6715.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking "6714" in the item added by such section 13242(b)(2) of such Act and inserting "6715".

(10) Paragraph (2) of section 9502(b) is amended by inserting "and before" after "1982,".

(11) Subsection (a)(3) of section 13206 of the Revenue Reconciliation Act of 1993 is amended by striking "this section" and inserting "this subsection".

(12) Paragraph (1) of section 13215(c) of the Revenue Reconciliation Act of 1993 is amended by striking "Public Law 92–21" and inserting "Public Law 98–21".

(13) Paragraph (2) of section 13311(e) of the Revenue Reconciliation Act of 1993 is amended by striking "section 1393(a)(3)" and inserting "section 1393(a)(2)".

(14) Subparagraph (B) of section 117(d)(2) is amended by striking "section 132(f)" and inserting "section 132(h)".

(o) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1993 to which such amendment relates.

SEC. 1704. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) IN GENERAL.—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) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) TREATMENT OF DISPOSITIONS UNDER PASSIVE LOSS RULES.—

(1) IN GENERAL.—Subparagraph (A) of section 469(g)(1) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) any loss from such activity for such taxable year (determined after the application of subsection (b)), over

"(ii) any net income or gain for such taxable year from all other passive activities (determined after the application of subsection (b)),

shall be treated as a loss which is not from a passive activity.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(f) MISCELLANEOUS AMENDMENTS TO FOREIGN PROVISIONS.—

(1) COORDINATION OF UNIFIED ESTATE TAX CREDIT WITH TREATIES.—Subparagraph (A) of section 2102(c)(3) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.".

(2) TREATMENT OF CERTAIN INTEREST PAID TO RELATED PERSON.—

(A) Subparagraph (B) of section 163(j)(1) is amended by inserting before the period at the end thereof the following: "(and clause (ii) of paragraph (2)(A) shall not apply for purposes of applying this subsection to the amount so treated)".

(B) Subsection (j) of section 163 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) COORDINATION WITH PASSIVE LOSS RULES, ETC.—This subsection shall be applied before sections 465 and 469.".

(C) The amendments made by this paragraph shall apply as if included in the amendments made by section 7210(a) of the Revenue Reconciliation Act of 1989.

(3) TREATMENT OF INTEREST ALLOCABLE TO EFFECTIVELY CONNECTED INCOME.—

(A) IN GENERAL.—

(i) Subparagraph (B) of section 884(f)(1) is amended by striking "to the extent" and all that follows down through "subparagraph (A)" and inserting "to the extent that the allocable interest exceeds the interest described in subparagraph (A)".

(ii) The second sentence of section 884(f)(1) is amended by striking "reasonably expected" and all that follows down through the period at the end thereof and inserting "reasonably expected to be allocable interest.".

(iii) Paragraph (2) of section 884(f) is amended to read as follows:

"(2) ALLOCABLE INTEREST.—For purposes of this subsection, the term 'allocable interest' means any interest which is allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the amendments made by section 1241(a) of the Tax Reform Act of 1986.

(4) CLARIFICATION OF SOURCE RULE.—

(A) IN GENERAL.—Paragraph (2) of section 865(b) is amended by striking "863(b)" and inserting "863".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 1211 of the Tax Reform Act of 1986.

(5) REPEAL OF OBSOLETE PROVISIONS.—

(A) Paragraph (1) of section 6038(a) is amended by striking ", and" at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(B) Subsection (b) of section 6038A is amended by adding "and" at the end of paragraph (2), by striking ", and" at the end of paragraph (3) and inserting a period, and by striking paragraph (4).

(g) CLARIFICATION OF TREATMENT OF MEDICARE ENTITLEMENT UNDER COBRA PROVISIONS.—

(1) IN GENERAL.—

(A) Subclause (V) of section 4980B(f)(2)(B)(i) is amended to read as follows:

"(V) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in paragraph (3)(B) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this clause before the close of the 36-month period beginning on the date the covered employee became so entitled.".

(B) Clause (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(v) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 603(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.".

(C) Clause (iv) of section 2202(2)(A) of the Public Health Service Act is amended to read as follows:

"(iv) MEDICARE ENTITLEMENT FOLLOWED BY QUALIFYING EVENT.—In the case of a qualifying event described in section 2203(2) that occurs less than 18 months after the date the covered employee became entitled to benefits under title XVIII of the Social Security Act, the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this subparagraph before the close of the 36-month period beginning on the date the covered employee became so entitled.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1989.

(h) TREATMENT OF CERTAIN REMIC INCLUSIONS.—

(1) IN GENERAL.—Subsection (a) of section 860E is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(A) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this subsection,

"(B) the alternative minimum taxable income of any holder of a residual interest in a REMIC for any taxable year shall in no event be less than the excess inclusion for such taxable year, and

"(C) any excess inclusion shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

The preceding sentence shall not apply to any organization to which section 593 applies, except to the extent provided in regulations prescribed by the Secretary under paragraph (2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 671 of the Tax Reform Act of 1986 unless the taxpayer elects to apply such amendment only to taxable years beginning after the date of the enactment of this Act.

(i) EXEMPTION FROM HARBOR MAINTENANCE TAX FOR CERTAIN PASSENGERS.—

(1) IN GENERAL.—Subparagraph (D) of section 4462(b)(1) (relating to special rule for Alaska, Hawaii, and possessions) is amended by inserting before the period the following: ", or passengers transported on United States flag vessels operating solely within the State waters of Alaska or Hawaii and adjacent international waters".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1402(a) of the Harbor Maintenance Revenue Act of 1986.

(j) AMENDMENTS RELATED TO REVENUE PROVISIONS OF ENERGY POLICY ACT OF 1992.—

(1) Effective with respect to taxable years beginning after December 31, 1990, subclause (II) of section 53(d)(1)(B)(iv) is amended to read as follows:

"(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased in the manner provided in clause (iii).".

(2) Subsection (g) of section 179A is redesignated as subsection (f).

(3) Subparagraph (E) of section 6724(d)(3) is amended by striking "section 6109(f)" and inserting "section 6109(h)".

(4)(A) Subsection (d) of section 30 is amended—

(i) by inserting "(determined without regard to subsection (b)(3))" before the period at the end of paragraph (1) thereof, and

(ii) by adding at the end thereof the following new paragraph:

"(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.".

(B) Subsection (m) of section 6501 (as redesignated by section 1602) is amended by striking "section 40(f)" and inserting "section 30(d)(4), 40(f)".

(5) Subclause (III) of section 501(c)(21)(D)(ii) is amended by striking "section 101(6)" and inserting "section 101(7)" and by striking "1752(6)" and inserting "1752(7)".

(6) Paragraph (1) of section 1917(b) of the Energy Policy Act of 1992 shall be applied as if "at a rate" appeared instead of "at the rate" in the material proposed to be stricken.

(7) Paragraph (2) of section 1921(b) of the Energy Policy Act of 1992 shall be applied as if a comma appeared after "(2)" in the material proposed to be stricken.

(8) Subsection (a) of section 1937 of the Energy Policy Act of 1992 shall be applied as if "Subpart B" appeared instead of "Subpart C".

(k) TREATMENT OF QUALIFIED FOOTBALL COACHES PLAN.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, a qualified football coaches plan—

(A) shall be treated as a multiemployer collectively bargained plan, and

(B) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement under section 401(k) of such Code.

(2) QUALIFIED FOOTBALL COACHES PLAN.—For purposes of this subsection, the term "qualified football coaches plan" means any defined contribution plan which is established and maintained by an organization—

(A) which is described in section 501(c) of such Code,

(B) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii) of such Code, and

(C) which was in existence on September 18, 1986.

(3) EFFECTIVE DATE.—This subsection shall apply to years beginning after December 22, 1987.

(l) DETERMINATION OF UNRECOVERED INVESTMENT IN ANNUITY CONTRACT.—

(1) IN GENERAL.—Subparagraph (A) of section 72(b)(4) is amended by inserting "(determined without regard to subsection (c)(2))" after "contract".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1122(c) of the Tax Reform Act of 1986.

(m) MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.—

(1) ELIGIBILITY FOR ELECTION.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(2) COMPUTATION OF TAX.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(A) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(B) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(3) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

(n) TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.—

(1) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

"(u) SPECIAL RULES RELATING TO VETERANS' REEMPLOYMENT RIGHTS UNDER USERRA.—

"(1) TREATMENT OF CERTAIN CONTRIBUTIONS MADE PURSUANT TO VETERANS' REEMPLOYMENT RIGHTS.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

"(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

"(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

"(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4),

401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 408(p), 410(b), or 416 by reason of the making of (or the right to make) such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter 43.

"(2) REEMPLOYMENT RIGHTS UNDER USERRA WITH RESPECT TO ELECTIVE DEFERRALS.—

"(A) IN GENERAL.—For purposes of this subchapter and section 457, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

"(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on the date of the reemployment of such employee with such employer and has the same length as the lesser of—

"(I) the product of 3 and the period of qualified military service which resulted in such rights, and

"(II) 5 years, and

"(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

"(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during the period of qualified military service if the individual had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

"(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

"(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to employee contributions.

"(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

"(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

"(B) any allocation of any forfeiture with respect to the period of qualified military service.

"(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code), whether or not qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

"(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan (including any tax-sheltered annuity plan under section 403(b), any simplified employee pension under section 408(k), any qualified salary reduction arrangement under section 408(p), and any eligible deferred compensation plan (as defined in section 457(b)).

"(7) COMPENSATION.—For purposes of sections 403(b)(3), 415(c)(3), and 457(e)(5), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

"(A) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

"(B) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

"(8) USERRA REQUIREMENTS FOR QUALIFIED RETIREMENT PLANS.—For purposes of this subchapter and section 457, an employer sponsoring a retirement plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

"(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

"(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

"(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

"(9) PLANS NOT SUBJECT TO TITLE 38.—This subsection shall not apply to any retirement plan to which chapter 43 of title 38, United States Code, does not apply.

"(10) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment).".

(2) AMENDMENT TO ERISA.—Section 408(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148(b)) is amended by adding at the end the following new sentence: "A loan made by a plan shall not fail to meet the requirements of the preceding sentence by reason of a loan repayment suspension described under section 414(u)(4) of the Internal Revenue Code of 1986."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as of December 12, 1994.

(o) REPORTING OF REAL ESTATE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

(p) CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(1) IN GENERAL.—Paragraph (1) of section 162(k) is amended by striking "the redemption of its stock" and inserting "the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))".

(2) CERTAIN DEDUCTIONS PERMITTED.—Subparagraph (A) of section 162(k)(2) is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or".

(3) CLERICAL AMENDMENT.—The subsection heading for subsection (k) of section 162 is amended by striking "REDEMPTION" and inserting "REACQUISITION".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(B) PARAGRAPH (2).—The amendment made by paragraph (2) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

(q) CLERICAL AMENDMENT TO SECTION 404.—

(1) IN GENERAL.—Paragraph (1) of section 404(j) is amended by striking "(10)" and inserting "(9)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984.

(r) PASSIVE INCOME NOT TO INCLUDE FSC INCOME, ETC.—

(1) IN GENERAL.—Paragraph (2) of section 1296(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) which is foreign trade income of a FSC or export trade income of an export trade corporation (as defined in section 971).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 1235 of the Tax Reform Act of 1986.

(s) TECHNICAL CORRECTION OF INTERMEDIATE SANCTIONS PROVISIONS.—

(1) Subparagraph (C) of section 6652(c)(1) is amended by striking "$10" and inserting "$20",

and by striking "$5,000" and inserting "$10,000".

(2) Subparagraph (D) of section 6652(c)(1) is amended by striking "$10" and inserting "$20".

(t) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

*(4)(A) The heading for section 112 is amended by striking "**COMBAT PAY**" and inserting "**COMBAT ZONE COMPENSATION**".*

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1) (A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(9) Section 1463 is amended by striking "this subsection" and inserting "this section".

(10) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(11) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(12) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(13) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(14) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(15) Subsection (k) of section 6166 is amended by striking paragraph (6).

(16) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2).".

(17) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(18) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(19) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(20)(A) Section 7232 is amended—

*(i) by striking "**LUBRICATING OIL**," in the heading, and*

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(21) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(22) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(23) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(24) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(25) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(26) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(27) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

(28) Paragraph (1) of section 460(b) is amended by striking "the look-back method of paragraph (3)" and inserting "the look-back method of paragraph (2)".

(29) Subparagraph (C) of section 50(a)(2) is amended by striking "subsection (c)(4)" and inserting "subsection (d)(5)".

(30) Subparagraph (B) of section 172(h)(4) is amended by striking the material following the heading and preceding clause (i) and inserting "For purposes of subsection (b)(2)—".

(31) Subparagraph (A) of section 355(d)(7) is amended by inserting "section" before "267(b)".

(32) Subparagraph (C) of section 420(e)(1) is amended by striking "mean" and inserting "means".

(33) Paragraph (4) of section 537(b) is amended by striking "section 172(i)" and inserting "section 172(f)".

(34) Subparagraph (B) of section 613(e)(1) is amended by striking the comma at the end thereof and inserting a period.

(35) Paragraph (4) of section 856(a) is amended by striking "section 582(c)(5)" and inserting "section 582(c)(2)".

(36) Sections 904(f)(2)(B)(i) and 907(c)(4)(B)(iii) are each amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "section 172(h)".

(37) Subsection (b) of section 936 is amended by striking "subparagraphs (D)(ii)(I)" and inserting "subparagraphs (D)(ii)".

(38) Subsection (c) of section 2104 is amended by striking "subparagraph (A), (C), or (D) of section 861(a)(1)" and inserting "section 861(a)(1)(A)".

(39) Subparagraph (A) of section 280A(c)(1) is amended to read as follows:

"(A) as the principal place of business for any trade or business of the tazpayer,".

(40) Section 6038 is amended by redesignating the subsection relating to cross references as subsection (f).

(41) Clause (iv) of section 6103(e)(1)(A) is amended by striking all that follows "provisions of" and inserting "section 1(g) or 59(j);".

(42) The subsection (f) of section 6109 of the Internal Revenue Code of 1986 which was added by section 2201(d) of Public Law 101–624 is redesignated as subsection (g).

(43) Subsection (b) of section 7454 is amended by striking "section 4955(e)(2)" and inserting "section 4955(f)(2)".

(44) Subsection (d) of section 11231 of the Revenue Reconciliation Act of 1990 shall be applied as if "comma" appeared instead of "period" and as if the paragraph (9) proposed to be added ended with a comma.

(45) Paragraph (1) of section 11303(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "paragraph" appeared instead of "subparagraph" in the material proposed to be stricken.

(46) Subsection (f) of section 11701 of the Revenue Reconciliation Act of 1990 is amended by inserting "(relating to definitions)" after "section 6038(e)".

(47) Subsection (i) of section 11701 of the Revenue Reconciliation Act of 1990 shall be applied as if "subsection" appeared instead of "section" in the material proposed to be stricken.

(48) Subparagraph (B) of section 11801(c)(2) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 56(g)" appeared instead of "section 59(g)".

(49) Subparagraph (C) of section 11801(c)(8) of the Revenue Reconciliation Act of 1990 shall be applied as if "reorganizations" appeared instead of "reorganization" in the material proposed to be stricken.

(50) Subparagraph (H) of section 11801(c)(9) of the Revenue Reconciliation Act of 1990 shall be applied as if "section 1042(c)(1)(B)" appeared instead of "section 1042(c)(2)(B)".

(51) Subparagraph (F) of section 11801(c)(12) of the Revenue Reconciliation Act of 1990 shall be applied as if "and (3)" appeared instead of "and (E)".

(52) Subparagraph (A) of section 11801(c)(22) of the Revenue Reconciliation Act of 1990 shall be applied as if "chapters 21" appeared instead of "chapter 21" in the material proposed to be stricken.

(53) Paragraph (3) of section 11812(b) of the Revenue Reconciliation Act of 1990 shall be applied by not executing the amendment therein to the heading of section 42(d)(5)(B).

(54) Clause (i) of section 11813(b)(9)(A) of the Revenue Reconciliation Act of 1990 shall be applied as if a comma appeared after "(3)(A)(ix)" in the material proposed to be stricken.

(55) Subparagraph (F) of section 11813(b)(13) of the Revenue Reconciliation Act of 1990 shall be applied as if "tax" appeared after "investment" in the material proposed to be stricken.

(56) Paragraph (19) of section 11813(b) of the Revenue Reconciliation Act of 1990 shall be applied as if "Paragraph (20) of section 1016(a), as redesignated by section 11801," appeared instead of "Paragraph (21) of section 1016(a)".

(57) Paragraph (5) section 8002(a) of the Surface Transportation Revenue Act of 1991 shall be applied as if "4481(e)" appeared instead of "4481(c)".

(58) Section 7872 is amended—

(A) by striking "foregone" each place it appears in subsections (a) and (e)(2) and inserting "forgone", and

(B) by striking "FOREGONE" in the heading for subsection (e) and the heading for paragraph (2) of subsection (e) and inserting "FORGONE".

(59) Paragraph (7) of section 7611(h) is amended by striking "approporiate" and inserting "appropriate".

(60) The heading of paragraph (3) of section 419A(c) is amended by striking "SEVERENCE" and inserting "SEVERANCE".

(61) Clause (ii) of section 807(d)(3)(B) is amended by striking "Commissoners' " and inserting "Commissioners' ".

(62) Subparagraph (B) of section 1274A(c)(1) is amended by striking "instument" and inserting "instrument".

(63) Subparagraph (B) of section 724(d)(3) by striking "Subparagaph" and inserting "Subparagraph".

(64) The last sentence of paragraph (2) of section 42(c) is amended by striking "of 1988".

(65) Paragraph (1) of section 9707(d) is amended by striking "diligence," and inserting "diligence".

(66) Subsection (c) of section 4977 is amended by striking "section 132(i)(2)" and inserting "section 132(h)".

(67) The last sentence of section 401(a)(20) is amended by striking "section 211" and inserting "section 521".

(68) Subparagraph (A) of section 402(g)(3) is amended by striking "subsection (a)(8)" and inserting "subsection (e)(3)".

(69) The last sentence of section 403(b)(10) is amended by striking "an direct" and inserting "a direct".

(70) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(c)" and inserting "section 402(c)".

(71) Paragraph (12) of section 3405(e) is amended by striking "(b)(3)" and inserting "(b)(2)".

(72) Paragraph (41) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if "section" appeared instead of "sections" in the material proposed to be stricken.

(73) Paragraph (27) of section 521(b) of the Unemployment Compensation Amendments of 1992 shall be applied as if "Section 691(c)(5)" appeared instead of "Section 691(c)".

(74) Paragraph (5) of section 860F(a) is amended by striking "paragraph (1)" and inserting "paragraph (2)".

(75) Paragraph (1) of section 415(k) is amended by adding "or" at the end of subparagraph (C), by striking subparagraphs (D) and (E), and by redesignating subparagraph (F) as subparagraph (D).

(76) Paragraph (2) of section 404(a) is amended by striking "(18),".

(77) Clause (ii) of section 72(p)(4)(A) is amended to read as follows:

"(ii) SPECIAL RULE.—The term 'qualified employer plan' shall include any plan which was (or was determined to be) a qualified employer plan or a government plan.".

(78) Sections 461(i)(3)(C) and 1274(b)(3)(B)(i) are each amended by striking "section 6662(d)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(iii)".

(79) Subsection (a) of section 164 is amended by striking the paragraphs relating to the generation-skipping tax and the environmental tax imposed by section 59A and by inserting after paragraph (3) the following new paragraphs:

"(4) The GST tax imposed on income distributions.

"(5) The environmental tax imposed by section 59A.".

(80) Subclause (I) of section 936(a)(4)(A)(ii) is amended by striking "deprecation" and inserting "depreciation".

Subtitle H—Other Provisions

SEC. 1801. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

"(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State during the period such area is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection (i) (as so in effect), and

"(2) the use of which is certified pursuant to regulations issued by the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fuel removed, entered, or sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 1802. TREATMENT OF CERTAIN UNIVERSITY ACCOUNTS.

(a) IN GENERAL.—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1986 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations that concurrently employ the same individual:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) an agency account of a State university which is described in subparagraph (A) and from which there is distributed to such faculty members payments forming a part of the compensation that the State, or such State university, as the case may be, agrees to pay to such faculty members, but only if—

(i) such agency account is authorized by State law and receives the funds for such payments from a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(ii) such payments are distributed by such agency account to such faculty members who render patient care at such medical school, and

(iii) such faculty members comprise at least 30 percent of the membership of such faculty practice plan, and

(2) remuneration which is disbursed by such agency account to any such faculty member of the medical school described in paragraph (1)(A) shall be deemed to have been actually disbursed by the State, or such State university, as the case may be, as a common paymaster and not to have been actually disbursed by such agency account.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1996.

SEC. 1803. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) RECYCLED HALON.—

(1) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting ", or on any recycled halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer" before the period at the end.

(2) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by paragraph (1).

(b) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS TAX-EXEMPT.—Paragraph (4) of section 4682(g) (relating to phase-in of tax on certain substances) is amended to read as follows:

"(4) CHEMICALS USED AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(A) TAX-EXEMPT.—

"(i) IN GENERAL.—No tax shall be imposed by section 4681 on—

"(I) any use of any substance as a propellant in metered-dose inhalers, or

"(II) any qualified sale by the manufacturer, producer, or importer of any substance.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser as a propellant in metered-dose inhalers, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used by any person as a propellant in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the tax so paid. Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) EFFECTIVE DATES.—

(1) RECYCLED HALON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a)(1) shall take effect on January 1, 1997.

(B) HALON-1211.—In the case of Halon-1211, the amendment made by subsection (a)(1) shall take effect on January 1, 1998.

(2) METERED-DOSE INHALERS.—The amendment made by subsection (b) shall take effect on the 7th day after the date of the enactment of this Act.

SEC. 1804. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(3) (as added by section 1608) and 147(d) of the Internal Revenue Code of 1986 shall not apply in determining whether any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration is a qualified bond for purposes of such Code.

SEC. 1805. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities

exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 1806. QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end the following new part:

"PART VIII—QUALIFIED STATE TUITION PROGRAMS

"Sec. 529. Qualified State tuition programs.

"SEC. 529. QUALIFIED STATE TUITION PROGRAMS.

"(a) GENERAL RULE.—A qualified State tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(b) QUALIFIED STATE TUITION PROGRAM.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified State tuition program' means a program established and maintained by a State or agency or instrumentality thereof—

"(A) under which a person—

"(i) may purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary, or

"(ii) may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

"(B) which meets the other requirements of this subsection.

"(2) CASH CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides that purchases or contributions may only be made in cash.

"(3) REFUNDS.—A program shall not be treated as a qualified State tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

"(A) used for qualified higher education expenses of the designated beneficiary,

"(B) made on account of the death or disability of the designated beneficiary, or

"(C) made on account of a scholarship (or allowance or payment described in section 135(d)(1) (B) or (C)) received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.

"(4) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified State tuition program unless it provides separate accounting for each designated beneficiary.

"(5) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified State tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not direct the investment of any contributions to the program (or any earnings thereon).

"(6) NO PLEDGING OF INTEREST AS SECURITY.—A program shall not be treated as a qualified State tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

"(7) PROHIBITION ON EXCESS CONTRIBUTIONS.—A program shall not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

"(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

"(A) a designated beneficiary under a qualified State tuition program, or

"(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any distribution or earnings under such program.

"(2) CONTRIBUTIONS.—In no event shall a contribution to a qualified State tuition program on behalf of a designated beneficiary be treated as a taxable gift for purposes of chapter 12.

"(3) DISTRIBUTIONS.—

"(A) IN GENERAL.—Any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

"(B) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.

"(C) CHANGE IN BENEFICIARIES.—

"(i) ROLLOVERS.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

"(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified State tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

"(D) OPERATING RULES.—For purposes of applying section 72—

"(i) to the extent provided by the Secretary, all qualified State tuition programs of which an individual is a designated beneficiary shall be treated as one program,

"(ii) all distributions during a taxable year shall be treated as one distribution, and

"(iii) the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

"(4) ESTATE TAX INCLUSION.—The value of any interest in any qualified State tuition program which is attributable to contributions made by an individual to such program on behalf of any designated beneficiary shall be includible in the gross estate of the contributor for purposes of chapter 11.

"(5) SPECIAL RULE FOR APPLYING SECTION 2503(e).—For purposes of section 2503(e), the waiver (or payment to an educational institution) of qualified higher education expenses of a designated beneficiary under a qualified State tuition program shall be treated as a qualified transfer.

"(d) REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—If there is a distribution to any individual with respect to an interest in a qualified State tuition program during any calendar year, each officer or employee having control of the qualified State tuition program or their designee shall make such reports as the Secretary may require regarding such distribution to the Secretary and to the designated beneficiary or the individual to whom the distribution was made. Any such report shall include such information as the Secretary may prescribe.

"(2) TIMING OF REPORTS.—Any report required by this subsection—

"(A) shall be filed at such time and in such matter as the Secretary prescribes, and

"(B) shall be furnished to individuals not later than January 31 of the calendar year following the calendar year to which such report relates.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DESIGNATED BENEFICIARY.—The term 'designated beneficiary' means—

"(A) the individual designated at the commencement of participation in the qualified State tuition program as the beneficiary of amounts paid (or to be paid) to the program,

"(B) in the case of a change in beneficiaries described in subsection (c)(2)(C), the individual who is the new beneficiary, and

"(C) in the case of an interest in a qualified State tuition program purchased by a State or local government or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

"(2) MEMBER OF FAMILY.—The term 'member of the family' has the same meaning given such term as section 2032A(e)(2).

"(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).

"(4) APPLICATION OF SECTION 514.—An interest in a qualified State tuition program shall not be treated as debt for purposes of section 514.".

(b) CONFORMING AMENDMENTS.—

(1) Section 135(d)(1) 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) a payment, waiver, or reimbursement of qualified higher education expenses under a qualified State tuition program (within the meaning of section 529(b)).".

(2) The table of parts for subchapter F of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Qualified State tuition programs."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) TRANSITION RULE.—If—

(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

(B) such program meets the requirements of a qualified State tuition program before the later of—

(i) the date which is 1 year after such date of enactment, or

(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

the amendments made by this section shall apply to contributions (and earnings allocable thereto) made before the date such program meets the requirements of such amendments without regard to whether any requirements of such amendments are met with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 1807. ADOPTION ASSISTANCE.

(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. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.

"(2) YEAR CREDIT ALLOWED.—The credit under paragraph (1) with respect to any expense shall be allowed—

"(A) for the taxable year following the taxable year during which such expense is paid or incurred, or

"(B) in the case of an expense which is paid or incurred during the taxable year in which the adoption becomes final, for such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000 ($6,000, in the case of a child with special needs).

"(2) INCOME LIMITATION.—

"(A) IN GENERAL.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(i) the amount (if any) by which the taxpayer's adjusted gross income exceeds $75,000, bears to

"(ii) $40,000.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), adjusted gross income shall be determined—

"(i) without regard to sections 911, 931, and 933, and

"(ii) after the application of sections 86, 135, 137, 219, and 469.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal adoption of an eligible child by the taxpayer,

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement,

"(C) which are not expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse, and

"(D) which are not reimbursed under an employer program or otherwise.

"(2) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who—

"(i) has not attained age 18, or

"(ii) is physically or mentally incapable of caring for himself, and

"(B) in the case of qualified adoption expenses paid or incurred after December 31, 2001, who is a child with special needs.

"(3) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child if—

"(A) a State has determined that the child cannot or should not be returned to the home of his parents,

"(B) such State has determined that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and

"(C) such child is a citizen or resident of the United States (as defined in section 217(h)(3)).

"(e) SPECIAL RULES FOR FOREIGN ADOPTIONS.—In the case of an adoption of a child who is not a citizen or resident of the United States (as defined in section 217(h)(3))—

"(1) subsection (a) shall not apply to any qualified adoption expense with respect to such adoption unless such adoption becomes final, and

"(2) any such expense which is paid or incurred before the taxable year in which such adoption becomes final shall be taken into account under this section as if such expense were paid or incurred during such year.

"(f) FILING REQUIREMENTS.—

"(1) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

"(2) TAXPAYER MUST INCLUDE TIN.—

"(A) In general.—No credit shall be allowed under this section with respect to any eligible child unless the taxpayer includes (if known) the name, age, and TIN of such child on the return of tax for the taxable year.

"(B) OTHER METHODS.—The Secretary may, in lieu of the information referred to in subparagraph (A), require other information meeting the purposes of subparagraph (A), including identification of an agent assisting with the adoption.

"(g) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section and section 137, including regulations which treat unmarried individuals who pay or incur qualified adoption expenses with respect to the same child as 1 taxpayer for purposes of applying the dollar limitation in subsection (b)(1) of this section and in section 137(b)(1)."

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of a child by the taxpayer shall not exceed $5,000 ($6,000, in the case of a child with special needs).

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's adjusted gross income exceeds $75,000, bears to

"(B) $40,000.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of paragraph (2), adjusted gross income shall be determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 135, 219, and 469.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees—

"(1) under which the employer provides such employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), (5), and (6) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 23(d) (determined without regard to reimbursements under this section).

"(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (e), (f), and (g) of section 23 shall apply for purposes of this section.

"(f) TERMINATION.—This section shall not apply to amounts paid or expenses incurred after December 31, 2001."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 25(e)(1) is amended by inserting "and section 23" after "this section".

(2) Sections 86(b)(2)(A) and 135(c)(4)(A) are each amended by inserting "137," before "911".

(3) Clause (i) of section 219(g)(3)(A) is amended by inserting ", 137," before "and 911".

(4) Clause (ii) of section 469(i)(3)(E) is amended to read as follows:

"(ii) the amounts excludable from gross income under sections 135 and 137,".

(5) Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end the following new paragraph:

"(26) to the extent provided in sections 23(g) and 137(e)."

(6) 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. Adoption expenses."

(7) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.

"Sec. 138. Cross reference to other Acts."

(d) STUDY AND REPORT.—The Secretary of the Treasury shall study the effect on adoptions of the tax credit and gross income exclusion established by the amendments made by this section and shall submit a report regarding the study 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, 2000.

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

SEC. 1808. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.

(a) STATE PLAN REQUIREMENTS.—Section 471(a) of the Social Security Act (42 U.S.C 671(a)) is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; and"; and

(3) by adding at the end the following:

"(18) not later than January 1, 1997, provides that neither the State nor any other entity in the State that receives funds from the Federal Government and is involved in adoption or foster care placements may—

"(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

"(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.".

(b) ENFORCEMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

"(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated section 471(a)(18) with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

"(A) 2 percent of such otherwise payable amount, in the case of the 1st such finding for the fiscal year with respect to the State;

"(B) 3 percent of such otherwise payable amount, in the case of the 2nd such finding for the fiscal year with respect to the State; or

"(C) 5 percent of such otherwise payable amount, in the case of the 3rd or subsequent such finding for the fiscal year with respect to the State.

In imposing the penalties described in this paragraph, the Secretary shall not reduce any fiscal year payment to a State by more than 5 percent.

"(2) Any other entity which is in a State that receives funds under this part and which violates section 471(a)(18) during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

"(3)(A) Any individual who is aggrieved by a violation of section 471(a)(18) by a State or other entity may bring an action seeking relief from the State or other entity in any United States district court.

"(B) An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

"(4) This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.".

(c) CIVIL RIGHTS.—

(1) PROHIBITED CONDUCT.—A person or government that is involved in adoption or foster care placements may not—

(A) deny to any individual the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the individual, or of the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) ENFORCEMENT.—Noncompliance with paragraph (1) is deemed a violation of title VI of the Civil Rights Act of 1964.

(3) NO EFFECT ON THE INDIAN CHILD WELFARE ACT OF 1978.—This subsection shall not be construed to affect the application of the Indian Child Welfare Act of 1978.

(d) CONFORMING AMENDMENT.—Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a) is repealed.

SEC. 1809. 6-MONTH DELAY OF ELECTRONIC FUND TRANSFER REQUIREMENT.

Notwithstanding any other provision of law, the increase in the applicable required percentages for fiscal year 1997 in clauses (i)(IV) and (ii)(IV) of section 6302(h)(2)(C) of the Internal Revenue Code of 1986 shall not take effect before July 1, 1997.

Subtitle I—Foreign Trust Tax Compliance

SEC. 1901. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United

States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON MAKES TRANSFER OR RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person makes a transfer to, or receives a distribution from, a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(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 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after December 31, 1995.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 1902. COMPARABLE PENALTIES FOR FAILURE TO FILE RETURN RELATING TO TRANSFERS TO FOREIGN ENTITIES.

(a) IN GENERAL.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a notice under section 6048(a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

SEC. 1903. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust

on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 1904. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount (if any) being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any portion of a trust if—

"(i) the power to revest absolutely in the grantor title to the trust property to which such portion is attributable is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such portion (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made (directly or indirectly) transfers of property (other than in a sale for full and adequate consideration) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—

(1) Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.".

(2) Paragraph (5) of section 901(b) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

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

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 1905. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF LARGE GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift

or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons.".

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

SEC. 1906. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities made after September 19, 1995.

SEC. 1907. RESIDENCE OF TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking "and" at the end of subparagraph (C) and by striking subparagraph (D) and by inserting the following new subparagraphs:

"(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

"(E) any trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

"(ii) one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—

"(A) FOREIGN ESTATE.—The term 'foreign estate' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

"(B) FOREIGN TRUST.—The term 'foreign trust' means any trust other than a trust described in subparagraph (E) of paragraph (30).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

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

Subtitle J—Generalized System of Preferences

SEC. 1951. SHORT TITLE.

This subtitle may be cited as the "GSP Renewal Act of 1996".

SEC. 1952. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

"The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

"(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

"(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

"(a) AUTHORITY TO DESIGNATE COUNTRIES.—

"(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

"(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

"(b) COUNTRIES INELIGIBLE FOR DESIGNATION.—

"(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

"(A) Australia.

"(B) Canada.

"(C) European Union member states.

"(D) Iceland.

"(E) Japan.

"(F) Monaco.

"(G) New Zealand.

"(H) Norway.

"(I) Switzerland.

"(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

"(A) Such country is a Communist country, unless—

"(i) the products of such country receive nondiscriminatory treatment,

"(ii) such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and

"(iii) such country is not dominated or controlled by international communism.

"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

"(ii) to cause serious disruption of the world economy.

"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

"(D)(i) Such country—

"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

"(ii) This clause applies if the President determines that—

"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

"(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

"(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

"(1) an expression by such country of its desire to be so designated;

"(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

"(3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

"(5) the extent to which such country is providing adequate and effective protection of intellectual property rights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

"(d) WITHDRAWAL, SUSPENSION, OR LIMITATION OF COUNTRY DESIGNATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. In taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section.

"(2) CHANGED CIRCUMSTANCES.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

"(3) ADVICE TO CONGRESS.—The President shall, as necessary, advise the Congress on the application of section 501 and subsection (c) of this section, and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subsection (c).

"(e) MANDATORY GRADUATION OF BENEFICIARY DEVELOPING COUNTRIES.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

"(f) CONGRESSIONAL NOTIFICATION.—

"(1) NOTIFICATION OF DESIGNATION.—

"(A) IN GENERAL.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

"(B) DESIGNATION AS LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

"(2) NOTIFICATION OF TERMINATION.—If the President has designated any country as a beneficiary developing country under this title, the

President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

"(a) ELIGIBLE ARTICLES.—

"(1) DESIGNATION.—

"(A) IN GENERAL.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles from all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

"(B) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Except for articles described in subparagraphs (A), (B), and (E) of subsection (b)(1) and articles described in paragraphs (2) and (3) of subsection (b), the President may, in carrying out section 502(d)(1) and subsection (c)(1) of this section, designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

"(C) THREE-YEAR RULE.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.

"(2) RULE OF ORIGIN.—

"(A) GENERAL RULE.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(ii) the sum of—

"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more such countries that are members of the same association of countries and are treated as one country under section 507(2), plus

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

"(B) EXCLUSIONS.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

"(i) simple combining or packaging operations, or

"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

"(3) REGULATIONS.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

"(b) ARTICLES THAT MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.—

"(1) IMPORT SENSITIVE ARTICLES.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

"(B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

"(C) Import-sensitive electronic articles.

"(D) Import-sensitive steel articles.

"(E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

"(F) Import-sensitive semimanufactured and manufactured glass products.

"(G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

"(2) ARTICLES AGAINST WHICH OTHER ACTIONS TAKEN.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

"(3) AGRICULTURAL PRODUCTS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

"(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) COMPETITIVE NEED LIMITATION.—

"(A) BASIS FOR WITHDRAWAL OF DUTY-FREE TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii) and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(I) a quantity of an eligible article having an appraised value in excess of the applicable amount for the calendar year, or

"(II) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during any calendar year,

the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

"(ii) ANNUAL ADJUSTMENT OF APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

"(I) for 1996, $75,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $5,000,000.

"(B) COUNTRY DEFINED.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 507(2), but does include a country which is a member of any such association.

"(C) REDESIGNATIONS.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may, subject to the considerations set forth in sections 501 and 502, be redesignated a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

"(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

"(E) ARTICLES NOT PRODUCED IN THE UNITED STATES EXCLUDED.—Subparagraph (A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) DE MINIMIS WAIVERS.—

"(i) IN GENERAL.—The President may disregard subparagraph (A)(i)(II) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount for such preceding calendar year.

"(ii) APPLICABLE AMOUNT.—For purposes of applying clause (i), the applicable amount is—

"(I) for calendar year 1996, $13,000,000, and

"(II) for each calendar year thereafter, an amount equal to the applicable amount in effect for the preceding calendar year plus $500,000.

"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

"(C) publishes the determination described in subparagraph (B) in the Federal Register.

"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) OTHER BASES FOR WAIVER.—The President may waive the application of subsection (c)(2) if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2) was made with respect to a beneficiary developing country, the President determines that—

"(A) there has been a historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce,

and the President publishes that determination in the Federal Register.

"(4) LIMITATIONS ON WAIVERS.—

"(A) IN GENERAL.—The President may not exercise the waiver authority under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which equals or exceeds 30 percent of the aggregate appraised value of all articles that entered duty-free under this title during the preceding calendar year.

"(B) OTHER WAIVER LIMITS.—The President may not exercise the waiver authority provided under this subsection with respect to a quantity of an eligible article entered during any calendar year beginning after 1995, the aggregate appraised value of which exceeds 15 percent of the aggregate appraised value of all articles that have entered duty-free under this title during the preceding calendar year from those beneficiary developing countries which for the preceding calendar year—

"(i) had a per capita gross national product (calculated on the basis of the best available information, including that of the International Bank for Reconstruction and Development) of $5,000 or more; or

"(ii) had exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title that had an aggregate appraised value of more than 10 percent of the aggregate appraised value of all articles that entered duty-free under this title during that year.

"(C) CALCULATION OF LIMITATIONS.—There shall be counted against the limitations imposed under subparagraphs (A) and (B) for any calendar year only that value of any eligible article of any country that—

"(i) entered duty-free under this title during such calendar year; and

"(ii) is in excess of the value of that article that would have been so entered during such calendar year if the limitations under subsection (c)(2)(A) applied.

"(5) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under subsection (a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORT TO CONGRESS.

The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

"SEC. 505. DATE OF TERMINATION.

"No duty-free treatment provided under this title shall remain in effect after May 31, 1997.

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

"SEC. 507. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and reports to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Agricultural exports of beneficiary developing countries.
"Sec. 507. Definitions.".

SEC. 1953. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle apply to articles entered on or after October 1, 1996.

(b) RETROACTIVE APPLICATION.—

(1) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (c)—

(A) any article that was entered—

(i) after July 31, 1995, and

(ii) before January 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry, and

(B) any article that was entered—

(i) after December 31, 1995, and

(ii) before October 1, 1996, and

to which duty-free treatment under title V of the Trade Act of 1974 (as amended by this subtitle) would have applied if the entry had been made on or after October 1, 1996, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) LIMITATION ON REFUNDS.—No refund shall be made pursuant to this subsection before October 1, 1996.

(3) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under subsection (b) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 1954. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on July 31, 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on July 31, 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "507(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(5) Section 201(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3331(a)(2)) is amended by striking "502(a)(2) of the Trade Act of 1974 (19 U.S.C. 2462(a)(2))" and inserting "502(f)(2) of the Trade Act of 1974".

(6) Section 131 of the Uruguay Round Agreements Act (19 U.S.C. 3551) is amended in subsections (a) and (b)(1) by striking "502(a)(4)" and inserting "507(4)".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "507(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "507(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504 of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "507(4)".

(4) Section 1621(a)(1) of the International Financial Institutions Act (22 U.S.C. 262p-4p(a)(1)) is amended by striking "502(a)(4)" and inserting "507(4)".

(5) Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended in subsections (a)(5)(F)(v) and (n)(1)(C) by striking "503(d) of

the Trade Act of 1974 (19 U.S.C. 2463(d))" and inserting "503(b)(3) of the Trade Act of 1974".

And the Senate agree to the same.

TITLE II

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3 and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an amendment as follows:

On page 236, line 12 of the House engrossed bill, strike "Act" and insert "This section and sections 2102 and 2103"; and on page 237, line 4 of the House engrossed bill, strike "section 1" and insert "section 2102"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5 and agree to the same with an amendment as follows:

On page 237, line 18 of the House engrossed bill, strike "June 30, 1996" and insert "September 30, 1996"; on line 19, strike "July 1, 1996" and insert "October 1, 1996"; beginning in line 20 strike "after the expiration of such year" and insert "beginning September 1, 1997"; and after line 21, insert the following:

(c) CONFORMING AMENDMENT.—Section 6 of such Act (29 U.S.C. 206) is amended by striking subsection (c).

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6 and agree to the same with an amendment as follows:

On page 239, line 1 of the House engrossed bill, strike "next to"; in line 3 of such page strike "to read as follows" and insert "by striking 'previous sentence' and inserting 'preceding 2 sentences' and by striking '(1)' and '(2)' and such section is amended by striking the next to last sentence and inserting the following"; and in line 15 of such page strike "cash"; and the Senate agree to the same.

From the Committee on Ways and Means, for consideration of the House bill (except for title II) and the Senate amendment numbered 1, and modifications committed to conference:

BILL ARCHER,
PHIL CRANE,
BILL THOMAS,
SAM GIBBONS,
CHARLES B. RANGEL,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of secs. 1704(h)(1)(B) and 1704(l) of the House bill and secs. 1421(d), 1442(b), 1442(c), 1451, 1457, 1460(b), 1460(c), 1461, 1465, and 1704(h)(1)(B) of the Senate amendment numbered 1, and modifications committed to conference:

WILLIAM F. GOODLING,
CASS BALLENGER,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title II of the House bill and the Senate amendments numbered 2–6, and modifications committed to conference:

WILLIAM F. GOODLING,
H.W. FAWELL,
FRANK RIGGS,
WILLIAM L. CLAY,
MAJOR R. OWENS,
MAURICE HINCHEY,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:

NANCY LANDON KASSEBAUM,
EDWARD M. KENNEDY,
JIM JEFFORDS,

From the Committee on Finance:

BILL ROTH,
JOHN H. CHAFEE,
CHUCK GRASSLEY,
ORIN G. HATCH,
AL SIMPSON,
LARRY PRESSLER,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
DAVID PRYOR,
JOHN D. ROCKEFELLER IV,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

I. SMALL BUSINESS AND OTHER TAX PROVISIONS

A. SMALL BUSINESS PROVISIONS

1. INCREASE IN EXPENSING FOR SMALL BUSINESSES

(Sec. 1111 of the House bill and the Senate amendment.)

Present law

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $17,500 of the cost of qualifying property placed in service for the taxable year (sec. 179).[1] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $17,500 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

House bill

The House bill increases the $17,500 amount allowed to be expensed under Code section 179 to $25,000. The increase is phased in as follows:

Taxable year beginning in—	Maximum expensing
1996	$18,500
1997	19,000
1998	20,000
1999	21,000
2000	22,000
2001	23,000
2002	23,500
2003 and thereafter	25,000

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1995, subject to the phase-in schedule set forth above.

Senate amendment[2]

The Senate amendment increases the $17,500 amount allowed to be expensed under Code section 179 to $25,000. The increase is phased in as follows:

Taxable year beginning in—	Maximum expensing
1997	$18,000
1998	18,500
1999	19,000
2000	20,000
2001	24,000
2002	24,000
2003 and thereafter	25,000

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1996, subject to the phase-in schedule set forth above.

Conference agreement

The conference agreement follows the Senate amendment.

2. TAX CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS

(Sec. 1112 of the House bill and the Senate amendment.)

Present law

Employee tip income is treated as employer-provided wages for purposes of the Federal Insurance Contributions Act ("FICA"). Employees are required to report to the employer the amount of tips received. The Omnibus Budget Reconciliation Act of 1993 ("OBRA 1993") provided a business tax credit with respect to certain employer FICA taxes paid with respect to tips treated as paid by the employer. The credit applies to tips received from customers in connection with the provision of food or beverages for consumption on the premises of an establishment with respect to which the tipping of employees is customary. OBRA 1993 provided that the FICA tip credit is effective for taxes paid after December 31, 1993. Temporary Treasury regulations provide that the tax credit is available only with respect to tips reported by the employee. The temporary regulations also provide that the credit is effective for FICA taxes paid by an employer after December 31, 1993, with respect to tips received for services performed after December 31, 1993.

House bill

The provision clarifies the credit with respect to employer FICA taxes paid on tips by providing that the credit is (1) available whether or not the employee reported the tips on which the employer FICA taxes were paid pursuant to section 6053(a), and (2) effective with respect to taxes paid after December 31, 1993, regardless of when the services with respect to which the tips are received were performed.

The provision also modifies the credit so that it applies with respect to tips received from customers in connection with the delivery or serving of food or beverages, regardless of whether the food or beverages are for

[1] The amount permitted to be expensed under Code section 179 is increased by up to an additional $20,000 for certain property placed in service by a business located in an empowerment zone (sec. 1397A).

[2] See discussion in Part VII (Tax Technical Corrections Provisions) below, regarding the Senate amendment clarification of the present-law provision that horses are qualified property for purposes of section 179.

consumption on the premises of the establishment.

Effective date.—The clarifications relating to the effective date and nonreported tips are effective as if included in OBRA 1993. The provision expanding the tip credit to the provision of food or beverages not for consumption on the premises of the establishment is effective with respect to FICA taxes paid on tips received with respect to services performed after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. HOME OFFICE DEDUCTION: TREATMENT OF STORAGE OF PRODUCT SAMPLES

(Sec. 1113 of the House bill.)

Present law

A taxpayer's business use of his or her home may give rise to a deduction for the business portion of expenses related to operating the home (e.g., a portion of rent or depreciation and repairs). Code section 280A(c)(1) provides, however, that business deductions generally are allowed only with respect to a portion of a home that is used exclusively and regularly in one of the following ways: (1) as the principal place of business for a trade or business; (2) as a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or (3) in connection with the taxpayer's trade or business, if the portion so used constitutes a separate structure not attached to the dwelling unit. In the case of an employee, the Code further requires that the business use of the home must be for the convenience of the employer (sec. 280A(c)(1)). These rules apply to houses, apartments, condominiums, mobile homes, boats, and other similar property used as the taxpayer's home (sec. 280A(f)(1)).

Section 280A(c)(2) contains a special rule that allows a home office deduction for business expenses related to a space within a home that is used on a regular (even if not exclusive) basis as a storage unit for the inventory of the taxpayer's trade or business of selling products at retail or wholesale, but only if the home is the sole fixed location of such trade or business.

Home office deductions may not be claimed if they create (or increase) a net loss from a business activity, although such deductions may be carried over to subsequent taxable years (sec. 280A(c)(5)).

House bill

The House bill clarifies that the special rule contained in present-law section 280A(c)(2) permits deductions for expenses related to a storage unit in a taxpayer's home regularly used for inventory or product samples (or both) of the taxpayer's trade or business of selling products at retail or wholesale, provided that the home is the sole fixed location of such trade or business.

Effective date—The provision applies to taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. TREATMENT OF CERTAIN CHARITABLE RISK POOLS

(Sec. 1114 of the House bill.)

Present law

Organizations described in section 501(c)(3) (which are referred to as "charities") generally are exempt from Federal income tax and are eligible to receive tax-deductible contributions and to use the proceeds of tax-exempt financing. Section 501(c)(3) requires that an organization be organized and operated exclusively for a charitable or other specifically enumerated exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(c)(3) requires that an organization that is organized and operated exclusively for charitable purposes is entitled to tax-exempt status under that section only if the organization satisfies the additional requirements that no part of its net earnings inures to the benefit of any private individual or shareholder (referred to as the "private inurement test") and only if the organization does not engage in political campaign activity on behalf of (or in opposition to) any candidate for public office and does not engage in substantial lobbying activities.

Section 501(m) provides that an organization described in section 501(c)(3) or 501(c)(4) of the Code is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance. For purposes of this rule, commercial-type insurance does not include insurance provided at substantially below cost to a class of charitable recipients.

Present law does not specifically accord tax-exempt status to an organization that pools insurable risks of a group of tax-exempt organizations described in section 501(c)(3).

House bill

Under the House bill, a qualified charitable risk pool is treated as organized and operated exclusively for charitable purposes. The provision make inapplicable to a qualified charitable risk pool the present-law rule under section 501(m) that a charitable organization described in section 501(c)(3) is exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance.

The House bill defines a qualified charitable risk pool as an organization organized and operated solely to pool insurable risks of its members (other than medical malpractice risks) and to provide information to its members with respect to loss control and risk management. Because a qualified charitable risk pool must be organized and operated solely to pool insurable risks of its members and to provide information to members with respect to loss control and risk management, no profit may be accorded to any member of the organization other than through providing members with insurance coverage below the cost of comparable commercial coverage and through providing members with loss control and risk management information. Only charitable tax-exempt organizations described in section 501(c)(3) may be members of a qualified charitable risk pool.

The House bill further requires that a qualified risk pool is required to (1) be organized as a nonprofit organization under State law authorizing risk pooling for charitable organizations; (2) be exempt from State income tax; (3) obtain at least $1 million in startup capital from nonmember charitable organizations; (4) be controlled by a board of directors elected by its members; and (5) provide in its organizational documents that members must be tax-exempt charitable organizations at all times, and if a member loses that status it must immediately notify the organization, and that no insurance coverage applies to a member after the date of any final determination that the member no longer qualifies as a tax-exempt charitable organization.

To be entitled to tax-exempt status under section 501(c)(3), a qualified charitable risk pool described in the provision also must satisfy the other requirements of that section (i.e., the private inurement test and the prohibition of political campaign activities and substantial lobbying).

Effective date.—The provision applies to taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS

(Sec. 1115 of the House bill and sec. 1113 of the Senate amendments.)

Present law

Tax-exempt organizations generally are subject to the unrelated business income tax ("UBIT") on income derived from a trade or business regularly carried on that is not substantially related to the performance of the organization's tax-exempt functions (secs. 511–514). Dues payments made to a membership organization generally are not subject to the UBIT. However, several courts have held that, with respect to postal labor organizations, dues payments were subject to the UBIT when received from individuals who were not postal workers, but who became "associate" members for the purpose of obtaining health insurance available to members of the organization. See *National League of Postmasters of the United States* v. *Commissioner*, No. 95–2646 (4th Cir. 1996), *American Postal Workers Union, AFL–CIO* v. *United States*, 925 F.2d 480 (D.C. Cir. 1991), *National Association of Postal Supervisors* v. *United States*, 944 F.2d 859 (Fed. Cir. 1991).

In Rev. Proc. 95–21 (issued March 23, 1995), the IRS set forth its position regarding when associate member dues payments received by an organization described in section 501(c)(5) will be treated as subject to the UBIT. The IRS stated that dues payments from associate members will not be treated as subject to UBIT unless, for the relevant period, "the associate member category has been formed or availed of for the principal purpose of producing unrelated business income." Thus, under Rev. Proc. 95–21, the focus of the inquiry is upon the organization's purposes in forming the associate member category (and whether the purposes of that category of membership are substantially related to the organization's exempt purposes other than through the production of income) rather than upon the motive of the individuals who join as associate members.

House bill

Under the House bill, if an agricultural or horticultural organization described in section 501(c)(5) requires annual dues not exceeding $100 to be paid in order to be a member of such organization, then in no event will any portion of such dues be subject to the UBIT by reason of any benefits or privileges to which members of such organization are entitled. For taxable years beginning after 1995, the $100 amount will be indexed for inflation. The term "dues" is defined as "any payment required to be made in order to be recognized by the organization as a member of the organization." Thus, if a person is recognized as a member of an organization by virtue of having paid annual dues for his or her membership, then any subsequent payments made by that person during

the year to purchase another membership in the same organization (covering the same period) would not be within the scope of the provision.

Effective date.—The provision applies to taxable years beginning after December 31, 1994.

Senate amendment

Same as the House bill, except that the Senate amendment applies to taxable years beginning after December 31, 1986. The Senate amendment also provides transitional relief to agricultural or horticultural organizations that had a reasonable basis for not treating membership dues received prior to January 1, 1987, as unrelated business income. In such cases, no portion of such dues will be treated as derived from an unrelated trade or business.

Conference agreement

The conference agreement follows the Senate amendment. The conferees intend that, if a person makes a single payment that entitles the person to be recognized as a member of the organization for more than twelve months, then such payment may be prorated to determine whether annual dues exceed the $100 cap (as adjusted for inflation).

6. CLARIFY EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN

(Sec. 1116(a) of the House bill and sec. 1114 of the Senate amendment.)

Present law

Under present law, service as a crew member on a fishing vessel is generally excluded from the definition of employment for purposes of income tax withholding on wages and for purposes of the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA) taxes if the operating crew of the boat normally consists of fewer than 10 individuals, the individual receives a share of the catch based on the total catch, and the individual does not receive cash remuneration other than proceeds from the sale of the individual's share of the catch. If a crew member receives any other cash, e.g., payment for services as an engineer, the exemption from FICA and FUTA taxes does not apply. Crew members to which the exemption applies are subject to self-employment taxes. Special reporting requirements apply to the operators of boats on which exempt crew members serve.

House bill

The operating crew of a boat is 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. In addition, the exemption applies if the crew member receives certain cash payments. The cash payments cannot exceed $100 per trip, is contingent on a minimum catch, and is paid solely for additional duties (e.g., as mate, engineer, or cook) for which additional cash remuneration is customary.

Effective date.—The provision applies to remuneration paid after December 31, 1996. In addition, the provision applies to remuneration paid after December 31, 1996. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1997, unless the payor treated such remuneration when paid as subject to FICA taxes.

Senate amendment

The Senate amendment is the same as the House bill.

Effective date.—The provision applies to remuneration paid after December 31, 1994. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1995, unless the payer treated such remuneration when paid as subject to FICA taxes.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Effective date.—The conference agreement follows the Senate amendment.

7. REPORTING REQUIREMENTS FOR PURCHASERS OF FISH

(Sec. 1116(b) of the House bill.)

Present law

Under present law, a person engaged in a trade or business who make payments during the calendar year of $600 or more to a person for "rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, or other income" must file an information return with the Internal Revenue Service reporting the amount of such payments, as well as the name, address, and taxpayer identification number of the person to whom such payments were made (Code sec. 6041). A similar statement must also be furnished to the person to whom such payments were made. Treasury regulations provide that payments for "merchandise" are not required to be reported under this provision (Treas. reg. sec. 1.6041-3(d)). Consequently, information reporting is generally not required with respect to purchases of fish or other forms of aquatic life. Information reporting is required by a person engaged in a trade or business who, in the course of that trade or business, receives more than $10,000 in cash in one transaction (or several related transactions) (Code sec. 6050I).

House bill

The provision requires persons engaged in the trade or business of purchasing fish for resale who pay more than $600 in cash in a calendar year for fish or other forms of aquatic life from any seller engaged in the trade or business of catching fish to file information reports with the Secretary regarding such purchases. A copy of the report must be provided to the seller.

Effective date.—The provision is effective for purchases made after December 31, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision is effective for purchases made after December 31, 1997.

8. MODIFY RULES GOVERNING ISSUANCE OF TAX-EXEMPT BONDS FOR FIRST-TIME FARMERS

(Sec. 1115 of the Senate amendment.)

Present law

Interest on bonds issued by State and local governments to provide financing to private persons is taxable unless an exception is provided in the Internal Revenue Code. One such exception allows State and local governments to issue bonds to finance loans to first-time farmers for the acquisition of land (and limited amounts of related depreciable farm property) if the purchasers will be the principal user of the property and will materially participate in the farming operation in which the property is to be used.

A first-time farmer is defined as an individual who has at no time owned farm land in excess of 15 percent of the median size of the farm in the county in which such land is located, and the fair market value of the land has not at any time when held by the individual exceeded $125,000.

Under general rules governing issuance of tax-exempt bonds, working capital financing (including purchases from related parties) is precluded.

House bill

No provision.

Senate amendment

The Senate amendment makes two modifications to the rules governing issuance of tax-exempt bonds for first-time farmers. First, the definition of first-time farmer is broadened to include an individual who has at no time owned farm land in excess of 30 percent of the median size farm in the county. Second, these bonds may be used to finance purchases between related parties provide that: (1) the price paid reflects the fair market value of the property and, (2) the seller has no financial interest in the farming operation conducted on the land after the bond-financed sale occurs.

Effective date.—For financing provided with bonds issued after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with a clarification relating to the circumstances in which a related seller is treated as having a continuing financial interest in bond-financed farmland. In general, the conferees intend that such a seller will not be treated as have a financial interest if the seller.

(a) has no more than a ten-percent interest in the capital or profits in a partnership comprising the farm;

(b) has no more than a ten-percent stock interest in a corporation comprising the farm;

(c) has no more ten-percent of the beneficial interest in a trust comprising the farm;

(d) is not a principal user of the farm; or

(e) has no other direct or indirect ownership or use of the farm which has as a principal purposes, the avoidance of this provision.

The conferees further intend that issuers making loans to finance related party sales provide appropriate notice to borrowers of these restrictions and of the fact that bond-proceeds may not be re-transferred from sellers to purchasers as part of efforts (e.g., step-transactions) to transfer both property financed with the bond proceeds and the bond proceeds received by the seller.

9. CLARIFY TREATMENT OF NEWSPAPER DISTRIBUTORS AND CARRIERS AS DIRECT SELLERS

(Sec. 1116 of the Senate amendment.)

Present law

For Federal tax purposes, there are two classifications of workers: a worker is either an employee of the service recipient or an independent contractor. Significant tax consequences result from the classification of a worker as an employee or independent contractor. These differences relate to withhold an employment tax requirements, as well as the ability to exclude certain types of compensation from income or take tax deductions for certain expenses. Some of these consequences favor employee status, while others favor independent contractor status. For example, an employee may exclude from gross income employer-provided benefits such as pension, health, and group-term life insurance benefits. On the other hand, an independent contractor can establish his or her own pension plan and deduct contributions to the plan. An independent contractor also has greater ability to deduct work-related expenses.

Under present law, the determination of whether a worker is an employee or an independent contractor is generally made under a common-law facts and circumstances test that seeks to determine whether the service provider is subject to the control of the service recipient, not only as to the nature of the work performed, but the circumstances under which it is performed. Under a special safe harbor rule (sec. 530 of the Revenue Act of 1978), a service recipient may treat a worker as an independent contractor for employment tax purposes even though the worker is an employee under the common-law test if the service recipient has a reasonable basis for treating the worker as an independent contractor and certain other requirements are met.

In addition to the common-law test, there are also some persons who are treated by statute as either employees or independent contractors. For example, "direct sellers" are deemed to be independent contractors. A direct seller is a person engaged in the trade or business of selling consumer products in the home or otherwise than in a permanent retail establishment, if substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes.

The newspaper industry has generally taken the position that newspaper distributors and carriers should be treated as direct sellers for income and employment tax purposes. The Internal Revenue Service has generally taken the position that the direct seller rules do not apply to newspaper distributors and carriers operating under an agency distribution system (i.e., where the publisher retains title to the newspapers).

House bill

No provision.

Senate amendment

The Senate amendment clarifies the treatment of qualifying newspaper distributors and carriers as direct sellers. Under the Senate amendment, a person engaged in the trade or business of the delivery or distribution of newspapers or shopping news (including any services that are directly related to such trade or business such as solicitation of customers of collection of receipts) qualifies as a direct seller, provided substantially all the remuneration for the performance of the services is directly related to sales or other output rather than to the number of hours worked, and the services performed by the person are performed pursuant to a written contract between such person and the service recipient and such contract provides that the person will not be treated as an employee for Federal tax purposes. The Senate amendment is intended to apply to newspaper distributors and carriers whether or not they hire others to assist in the delivery of newspapers. The Senate amendment also applies to newspaper distributors and carriers operating under either a buy-sell distribution system (i.e., where the newspaper distributors or carriers purchase the newspapers from the publisher) or an agency distribution system. For example, newspaper distributors and carriers operating under an agency distribution system who are paid based on the number of papers delivered and have an appropriate written agreement qualify as direct sellers. The status of newspaper distributors and carriers who do not qualify as direct sellers under the Senate amendment continue to be determined under present-law rules. No inference is intended with respect to the employment status of newspaper distributors and carriers prior to the effective date of the Senate amendment. Further, the provision is intended to clarify the worker classification issue for income and employment taxes only. The provision is not intended to have any impact whatsoever on the interpretation or applicability of Federal, State, or local labor laws.

Effective date—The provision is effective with respect to services performed after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

10. APPLICATION OF INVOLUNTARY CONVERSION RULES TO PROPERTY DAMAGED AS A RESULT OF PRESIDENTIALLY DECLARED DISASTERS

(Sec. 1117 of the Senate amendment.)

Present law

A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period property similar or related in service or use. If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized.

House bill

No provision.

Senate amendment

Any tangible property acquired and held for productive use in a business is treated as similar or related in service or use to property that (1) was held for investment or for productive use in a business and (2) was involuntarily converted as a result of a Presidentially declared disaster.

Effective date.—The Senate amendment is effective for disasters for which a Presidential declaration is made after December 31, 1994, in taxable years ending after that date.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that the boundaries of the enterprise community for Oklahoma City designated by the Secretary of Housing and Urban Development on December 21, 1994, may be extended with respect to the census tracts located in the area damaged by the bombing of the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995. The modification is effective on the date of enactment.

11. ESTABLISH 15-YEAR RECOVERY PERIOD FOR RETAIL MOTOR FUELS OUTLET STORES

(Sec. 1118 of the Senate amendment.)

Present law

Under present law, depreciation for property used in the retail gasoline trade is calculated under section 168 using a 15-year recovery period and the 150-percent declining balance method. Nonresidential real property is depreciated using a 39-year recovery period and the straight-line method. It is understood that taxpayers generally have taken the position that convenience stores and other buildings installed at retail motor fuels outlets have a 15-year recovery period. The IRS, in a position described in a recent Coordinated Issues Paper, generally limits the application of the 15-year recovery period to instances where the structure: (1) is 1,400 square feet or less or (2) meets a 50-percent test. The 50-percent test is met if: (1) 50 percent or more of the gross revenues that are generated from the building are derived from petroleum sales and (2) 50 percent or more of the floor space in the building is devoted to petroleum marketing sales.

House bill

No provision.

Senate amendment

The Senate amendment provides that 15-year property includes any section 1250 property (generally, depreciable real property) that is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet). A retail motor fuels outlet does not include any facility related to petroleum or natural gas trunk pipelines or to any section 1250 property used only to an insubstantial extent in the retail marketing of petroleum or petroleum products.

Effective date.—The provision is effective for property placed in service on or after the date of enactment and to which the amendments made by section 201 of the Tax Reform Act of 1986 apply (i.e., property subject to the modified Accelerated Cost Recovery System of sec. 168). The taxpayer may elect the application of the provision for property placed in service prior to the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

A taxpayer may elect the application of the provision for qualified property placed in service prior to the date of enactment. The conferees clarify that if a taxpayer has already treated qualified property that was placed in service before the date of enactment as 15-year property, the taxpayer will be deemed to have made the election with respect to such property.

12. TREATMENT OF LEASEHOLD IMPROVEMENTS

(Sec. 1119 of the Senate amendment.)

Present law

A taxpayer generally recovers the adjusted basis of property for purposes of determining gain or loss upon the disposition of the property. Upon the termination of a lease, the adjusted basis of leasehold improvements that were made, but are not retained, by a lessee are taken into account to compute gain or loss by the lessee. The proper treatment of the adjusted basis of improvements made by a lessor upon termination of a lease is less clear. It appears that it is the position of the Internal Revenue Service that leasehold improvements made by a lessor that constitute structural components of a building must be continued to be depreciated in the same manner as the underlying real property, even if such improvements are retired at the end of the lease term. Some lessors, on the other hand, may be taking the position that a leasehold improvement is a property separate and distinct from the underlying building and that an abandonment loss under section 165 is allowable at the end of the lease term for the adjusted basis of the property.

House bill

No provision.

Senate amendment

A lessor of leased property that disposes of a leasehold improvement which was made by the lessor for the lessee of the property may take the adjusted basis of the improvement into account for purposes of determining gain or loss, if the improvement is irrevocably disposed of or abandoned by the lessee at the termination of the lease.

Effective date.—The provision is effective for leasehold improvements disposed of after

June 12, 1996. No inference is intended as to the proper treatment of such dispositions before June 13, 1996.

Conference agreement

The conference agreement follows the Senate amendment. The conferees wish to clarify that the provision does not apply to the extent section 280B of present law applies to the demolition of a structure, a portion of which may include leasehold improvements.

13. INCREASE DEDUCTIBILITY OF BUSINESS MEAL EXPENSES OF CERTAIN SEAFOOD PROCESSING FACILITIES

(Sec. 1120 of the Senate amendment.)

Present law

In general, 50 percent of meal and entertainment expenses incurred in connection with a trade or business that are ordinary and necessary (and not lavish or extravagant) are deductive (sec. 274). Food or beverage expenses are fully deductible provided that they are (1) required by Federal law to be provided to crew members of a commercial vessel, (2) provided to crew members of similar commercial vessels not operated on the oceans, or (3) provided on certain oil or gas platforms or drilling rigs.

House bill

No provision.

Senate amendment

The Senate amendment adds remote seafood processing facilities located in the United States north of 53 degrees north latitude to the present-law of entities not subject to the 50 percent limitation on the deductibility of business meals. Consequently, these expenses are fully deductible. A seafood processing facility is remote when there are insufficient eating facilities in the vicinity of the employer's premises.[3]

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement does not include the Senate amendment provision.

14. PROVIDE A LOWER RATE OF TAX ON CERTAIN HARD CIDERS

(Sec. 1121 of the Senate amendment.)

Present law

Distilled spirits are taxed at a rate of $13.50 per proof gallon; beer is taxed at a rate of $18 per barrel (approximately 58 cents per gallon); and still wines of 14 percent alcohol or less are taxed at a rate of $1.07 per wine gallon. Higher rates of tax are applied to wines with great alcohol content and sparking wines.

Certain small wineries may claim a credit against the excise tax on wine of 90 cents per wine gallon on the first 100,000 gallons on wine produced annually. Certain small breweries pay a reduced tax of $7.00 per barrel (approximately 22.6 cents per gallon) on the first 60,000 barrels of beer produced annually.

Apple cider containing alcohol is classified and taxed as wine.

House Bill

No provision.

Senate amendment

The Senate amendment adjusts the tax rate on apple cider having an alcohol content of no more than seven percent to 22.6 cents per gallon.

Effective date.—The provision is effective for apple cider removed after December 31, 1996.

[3] See Treas. Reg. sec. 1.119-1(a)(2)(ii)(c) and 1.119-1(f)(Example 7).

Conference agreement

The conference agreement does not include the Senate amendment.

15. MODIFICATIONS TO SECTION 530 OF THE REVENUE ACT OF 1978

(Sec. 1122 of the Senate amendment.)

Present law

In general

For Federal tax purposes, there are two classifications of workers: a worker is either an employee of the service recipient or an independent contractor. In general, the determination of whether an employer-employee relationship exists for Federal tax purposes is made under a common-law test. Treasury regulations provide that an employer-employee relationship generally exists if the person contracting for services has the right to control not only the result of the services, but also the means by which that result is accomplished.[4]

Section 530

With increased enforcement of the employment tax laws beginning in the late 1960s, controversies developed between the IRS and taxpayers as to whether businesses had correctly classified certain workers as self employed rather than as employees. In response to this problem, the Congress enacted section 530 of the Revenue Act of 1978 ("section 530"). That provision generally allows a taxpayer to treat a worker as not being an employee for employment tax purposes (but not income tax purposes), regardless of the individual's actual status under the common-law test, unless the taxpayer has no reasonable basis for such treatment.

It is the position of the IRS, based on legislative history, that section 530 can only apply after a determination has been made that a worker is an employee under the common-law test.[5] The IRS does not require the taxpayer to concede or agree to a determination that the worker is an employee.[6] However, several courts that have explicitly considered the question have held that section 530 relief is available irrespective of whether there has been an initial determination of worker classification under the common law.[7]

Under section 530, a reasonable basis for treating a worker as an independent contractor is considered to exist if the taxpayer (1) reasonably relied on published rulings or judicial precedent, (2) reasonably relied on past IRS audit practice with respect to the taxpayer, (3) reasonably relief on long-standing recognized practice of a significant segment of the (industry of which the taxpayer is a member, or (4) has any other reasonable basis for treating a worker as an independent contractor. The legislative history states that section 530 is to be "construed liberally in favor of taxpayers."[8]

Under section 530, reliance on judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer is deemed a reasonable basis for treating a worker as an independent contractor. If a taxpayer relies on this safe harbor, the IRS will look to see whether the facts of the judicial precedent or published ruling are sufficiently similar to the taxpayer's facts.[9]

Under the prior-audit safe harbor, reasonable reliance is generally found to exist if the IRS failed to raise an employment tax issue on audit, even though the audit was not related to employment tax matters. A taxpayer can also rely on a prior audit in which an employment tax issue was raised, but was resolved in favor of the taxpayer. According to the IRS, an "audit" must involve an examination of the taxpayer's books and records; mere inquiries from an IRS service center or a "compliance check" to determine whether a taxpayer has filed all returns will not suffice.[10] In order to rely on a prior audit, the IRS requires that the taxpayer must have treated the workers at issue as independent contractors during the period covered by the prior audit.[11]

A taxpayer is also treated as having a reasonable basis for treating a worker as an independent contractor under section 530 if the taxpayer reasonably relied on long-standing recognized practice of a significant segment of the industry in which the taxpayer is engaged.

Section 530 does not specify a period of time in order for a practice to be long standing. The IRS Training Guide provides that a practice is presumed to be long standing if it existed for 10 years or more.[12] the IRS Training Guide recognizes that a taxpayer may use the industry practice safe harbor even if it began business after 1978 or the industry came into existence after 1978.[13] However, the IRS Training Guide provides that if the industry practice changed by the time the taxpayer joined the industry, the taxpayer cannot rely on the former practice.

Neither section 530, nor the legislative history, provides a clear standard as to what constitutes a significant segment of a taxpayer's industry. The IRS Training Guide provides that the determination will be based on the facts and circumstances.[14] A few courts have addressed this issue. In one case, the IRS argued that a significant segment of the industry means more than 50 percent of the industry.[15] However, that court held that a significant segment is less than a majority of the firms in an industry. Another court held that 15 out of 84 industry respondents (18 percent) treating workers as independent contractors would constitute a significant segment of an industry.[16]

Even if a taxpayer is unable to rely on one of the three safe harbors described above, a taxpayer may still be entitled to relief under

[4] The Internal Revenue Service ("IRS") has developed a list of 20 factors that may be examined in determining whether an employer-employee relationship exists. Rev. Rul. 87-41, 1987-1, C.B. 296.

[5] Employee or Independent Contractor?, at 3-4 (July 15, 1996)(hereinafter the "IRS Training Guide").

[6] IRS Training Guide, at 3-6; TAM 9443002 (December 3, 1993).

[7] See e.g., *Lambert's Nursery and Landscaping, Inc.* v. *U.S.*, 894 F.2d 154 (5th Cir. 1990) ("It is not necessary to determine whether [taxpayer's] workers were independent contractors or employees for employment tax purposes.") *J & J Cab Service, Inc.* v. *U.S.*, 75 AFTR2d No. 95-618 (W.D. N.C. 1995) ("Section 530 relief may be granted irrespective of whether individuals were incorrectly treated as other than employees"); *Queensgate Dental Family Practice, Inc.* v. *U.S.*, 91-2 USTC No. 50,536 (M.D. Pa. 1991) (disagreeing with the IRS' contention that the court must first determine worker classification before applying section 530).

[8] H. Rept. No. 1748 (95th Cong., 2d Sess., 5 (1978)). The conference agreement to the Revenue Act of 1978 adopted the provisions of the House bill and therefore incorporates this legislative history.

[9] See e.g., TAM 9443002 (December 3, 1993); TAM 9330007 (April 28, 1993).

[10] IRS Training Guide, at 3-19.

[11] IRS Training Guide, at 3-20.

[12] IRS Training Guide, at 3-24.

[13] IRS Training Guide, at 3-24.

[14] IRS Training Guide, at 3-25.

[15] In re Bentley, 73 AFTR2d No. 94-667 (Bkrtcy. E.D. Tenn. 1994).

[16] *REAG, Inc.* v. *U.S.*, 801 F.Supp. 494 (W.D. Okla. 1992).

section 530 if the taxpayer has any other reasonable basis for treating a worker as an independent contractor.

The relief under section 530 is available with respect to an individual only if certain additional requirements are satisfied. The taxpayer must not have treated the individual as an employee for any period, and for periods since 1978 all Federal tax returns, including information returns, must have been filed on a basis consistent with treating such individual as an independent contractor. Further, the taxpayer (or a predecessor) must not have treated any individual holding a substantially similar position as an employee for purposes of employment taxes for any period beginning after 1977.

Whether workers are similarly situated is dependent on the facts and circumstances. The IRS Training Guide states that a "substantially similar position exists if the job functions, duties, and responsibilities are substantially similar and the control and supervision of those duties and responsibilities is substantially similar."[17]

There have been a few court decisions addressing this issue. For example, in *REAG, Inc.* v. *U.S.*,[18] the court held that the position of appraisers who were owner-officers of the business was not substantially similar to appraisers who were not owners since the owner-officers had managerial responsibilities. By contrast, in *Lowen Corp.* v. *U.S.*,[19] the court found that all workers engaged in the business of selling real estate signs had substantially similar positions even though some were salaried and had to file daily reports while others were paid by commission and did not have to file such reports.

The IRS Training Guide states that the burden of proof is on the taxpayer to demonstrate that it had a reasonable basis for treating a worker as an independent contractor.[20] However, in light of the Congressional instruction in the legislative history to construe section 530 liberally,[21] courts appear to be split as to how stringent a burden to apply.

In *McClellan* v. *U.S.*,[22] the court held that section 530 requires the "taxpayer to come forward with an explanation and enough evidence to establish prima facie grounds for a finding of reasonableness. . . . [T]his threshold burden is relatively low, and can be met with any reasonableness showing. Once the taxpayer has made this prima facie showing, the burden then shifts to the IRS to verify or refute the taxpayer's explanation." By contrast, in *Boles Trucking, Inc.*, v. *U.S.*,[23] the court held that the burden is on the taxpayer to show, based on a preponderance of the evidence, that it had a reasonable basis for treating workers as independent contractors.

Under section 1706 of the Tax Reform Act of 1986, section 530 does not apply in the case of an individual who, pursuant to an arrangement between the taxpayer and another person, provides services for such other person as an engineer; designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work. Thus, the determination of whether such individuals are employees or self employed is made in accordance with the common-law test.

House bill

No provision.

Senate amendment

The Senate amendment makes several clarifications of and modifications to section 530.

First, under the Senate amendment, a worker does not have to otherwise be an employee of the taxpayer in order for section 530 to apply. The provision is intended to reverse the IRS position, as stated in the IRS Training Guide, that there first must be a determination that the worker is an employee under the common law standards before application of section 530.

The Senate amendment modifies the prior audit safe harbor so that taxpayers may not rely on an audit commencing after December 31, 1996, unless such audit included an examination for employment tax purposes of whether the worker involved (or any worker holding a position substantially similar to the position held by the worker involved) should be treated as an employee of the taxpayer. The provision does not affect the ability of taxpayers to rely on prior audits that commenced before January 1, 1997, even though the audit was not related to employment tax matters, as under present law.

Under the Senate amendment, section 530 does not apply with respect to a worker unless the taxpayer and the worker sign a statement (at such time and in such manner as the Secretary may prescribe) which provides that the worker will not be treated as an employee for employment tax purposes. Also, the Senate amendment provides that an officer or employee of the IRS must, at (or before) the commencement of an audit involving worker classification issues, provide the taxpayer with written notice of the provisions of section 530.

The Senate amendment makes a number of changes to the industry practice safe harbor. First, the Senate amendment provides that a significant segment of the taxpayer's industry under the industry practice safe harbor does not require a reasonable showing of the practice of more than 25 percent of an industry (determined without taking into account the taxpayer). The provision is intended to be a safe harbor; a lower percentage may constitute a significant segment of the taxpayer's industry based on the particular facts and circumstances.

The Senate amendment also provides that an industry practice need not have continued for more than 10 years in order for the industry practice to be considered long standing. As with the significant segment safe harbor, this provision is intended to be a safe harbor; an industry practice in existence for a shorter period of time may be considered long standing based on the particular facts and circumstances. In addition, the Senate amendment clarifies that an industry practice will not fail to be treated as long standing merely because such practice began after 1978. Consequently, the provision clarifies that new industries can take advantage of section 530.

The Senate amendment modifies the burden of proof in section 530 cases by providing that if a taxpayer establishes a prima facie case that it was reasonable not to treat a worker as an employee for purposes of section 530,[24] the burden of proof shifts to the IRS with respect to such treatment.[25] In order for the shift in burden of proof to occur, the taxpayer must fully cooperate with reasonable requests by the IRS for information relevant to the taxpayer's treatment of the worker as an independent contractor under section 530. It is intended that a request by the IRS will not be treated as reasonable if complying with the request would be impracticable given the particular circumstances and the relative costs involved. The shift in the burden of proof does not apply for purposes of determining whether the taxpayer had any other reasonable basis for treating the worker as an independent contractor, but does apply to all other aspects of section 530. So, for example, provided the taxpayer establishes its prima facie case and fully cooperates with the IRS' reasonable requests, the burden of proof shifts to the IRS with respect to all other aspects of section 530, including whether the taxpayer had a reasonable basis for treating the worker as an independent contractor under the judicial or administrative precedent, prior audit, or long-standing industry practice safe harbors, whether the taxpayer filed all Federal tax returns on a basis consistent with treating the worker as an independent contractor, and whether the taxpayer treated any worker holding a substantially similar position as an employee. No inference is intended with respect to the application of the burden of proof in section 530 cases prior to the effective date of this provision.

The Senate amendment also provides that if a taxpayer prospectively changes its treatment of workers from independent contractors to employees for employment tax purposes, such a change will not affect the applicability of section 530 with respect to such workers for prior periods.

Finally, the Senate amendment provides that, in determining whether a worker holds a substantially similar position to another worker, the relationship of the parties must be one of the factors taken into account.

Effective date.—The provisions generally apply to periods after December 31, 1996. The provision regarding the burden of proof applies to disputes with respect to periods after December 31, 1996. In the case of workers engaged to perform services for a taxpayer before January 1, 1997, the provision requiring a written statement that such workers are not employees for employment tax purposes is effective for periods after December 31, 1997 (unless the taxpayer elects to apply the provision earlier). The provision requiring the IRS to notify taxpayers of the provisions of section 530 applies to audits commencing after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment, with the following modifications:

The conference agreement deletes the written statement requirement in the Senate amendment.

The conferees wish to clarify the notice that the IRS must provide to taxpayers at

[17] IRS Training Guide, at 3–11.

[18] 801 F.Supp. 494 (W.D. Okla. 1992).

[19] 785 F.Supp. 913 (D. Kan. 1992).

[20] IRS Training Guide, at 3–6.

[21] H. Rept. No. 1748 (95th Cong., 2d Sess., 5 (1978)). The conference agreement to the Revenue Act of 1978 adopted the provisions of the House bill and therefore incorporates this legislative history.

[22] 900 F.Supp. 101 (E.D. Mich. 1995). See also *REAG. Inc.* v. *U.S.*, 801 F.Supp. 494 (W.D. Okla. 1992) (a taxpayer need only show a substantial rational basis for its decision to treat the workers as independent contractors).

[23] 77 F.3d 236 (8th Cir. 1996) See also *Springfield* v. *U.S.*, 1996 U.S. App. LEXIS 15879 (9th Cir. 1996) (taxpayer has the burden to show it satisfies the requirements of section 530 by a preponderance of the evidence).

[24] For example, the taxpayer must establish a prima facie case that it reasonably satisfies the requirements of section 530 for not treating the worker as an employee, including the reporting consistency and consistency among workers with substantially similar positions requirements, and the requirement that the taxpayer have a reasonable basis for not treating the worker as an employee.

[25] The provision is generally intended to codify the holding in *McClellan* v. *U.S.*, discussed above, with respect to the burden of proof in section 530 cases.

(or before) the commencement of an audit inquiry involving worker classification issues. The conferees recognize that, in many cases, the portion of an audit involving worker classification issues will not arise until after the examination of the taxpayer begins. In that case, the notice need only be given at the time the worker classification issue is first raised with the taxpayer.

With respect to the burden of proof in section 530 cases, the conferees intend that a request for information by the IRS will not be treated as reasonable if (1) it does not relate to the particular basis on which the taxpayer relied for establishing its reasonable basis, or (2) complying with the request would be impracticable given the particular circumstances and the relative costs involved.

With respect to the substantially similar position provision, the conferees clarify that consideration of the relationship between a taxpayer and a worker includes consideration of the degree of supervision and control of the worker by the taxpayer.

16. EMPLOYEE HOUSING FOR CERTAIN MEDICAL RESEARCH INSTITUTIONS

(Sec. 1123 of the Senate amendment.)

Present law

Under Code section 119(d), employees of an educational institution described in Code section 170(b)(1)(A)(ii) do not have to include in income the fair market value of campus housing as long as the rent is at least five percent of the appraised value of the housing. If the rent is less than the five-percent safe harbor, there is inclusion into income to the extent that the rent that was charged falls short of the lesser of five percent of the appraised value or the average of rents paid by individuals (other than employees or students of the educational institution) for similar lodging provided by the institution.

House bill

No provision.

Senate amendment

The Senate amendment treats as "educational institutions" for purposes of Code section 119(d) certain medical research institutions ("academic health centers") that engage in basic and clinical research, have a regular faculty and teach a curriculum in basic and clinical research to students in attendance at the institution.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment, with a further modification that treats as "educational institutions" for purposes of Code section 119(d) certain entities ("university systems") organized under State law composed of public institutions described in Code section 170(b)(1)(A)(ii). The conferees intend that, for purposes of the present-law requirement of Code section 119(d)(3)(A) that the employee housing be provided on (or in the proximity of) a campus of the employer, a campus of one of the component educational institutions of a university system should be considered to be a campus of the university system.

B. EXTENSION OF CERTAIN EXPIRING PROVISIONS

1. WORK OPPORTUNITY TAX CREDIT

(Sec. 1201 of House bill and the Senate amendment.)

Present law

Prior to January 1, 1995, the targeted jobs tax credit was available on an elective basis for employers hiring individuals from one or more of nine targeted groups. The credit generally was equal to 40 percent of qualified first-year wages (up to $6,000) for maximum credit of $2,400.

House bill

General rules.—The House bill replaces the targeted jobs tax credit with the "work opportunity tax credit". The new credit is available on an elective basis for employers hiring individuals from one or more of seven targeted groups. The credit generally is equal to 35 percent of qualified first-year wages.

Minimum employment period.—Under the House bill, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 days in the case of a qualified summer youth employee) or 500 hours (120 hours in the case of a qualified summer youth employee).

Certification of members of targeted groups.—In general, under the House bill, an individual is not treated as a member of a targeted group unless: (1) on or before the day the individual begins work for the employer, the employer, the employer received in writing a certification from the designated local agency that the individual is a member of a specific targeted group, or (2) on or before the day the individual is offered work with the employer, a pre-screening notice is completed with respect to that individual by the employer and within 14 days after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for certification. The pre-screening notice will contain the information provided to the employer by the individual that forms the basis of the employer's belief that the individual is a member of a targeted group.

Effective date.—Wages paid or incurred to a qualified individual who begins work for an employer after June 30, 1996, and before July 1, 1997.

Senate amendment

General rules.—Same as the House bill with the addition of an eighth targeted group, individuals 18 to 24 who are in families that have been receiving food stamps for at least a three-month period ending on the date of hire.

Minimum employment period.—Under the Senate amendment, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 in the case of a qualified summer youth employee) or 375 hours (120 hours in the case of a qualified summer youth employee).

Certification of members of targeted groups.—Same as House bill except that it replaces the 14-day rule with a 21-day rule for submission of pre-screening notice.

Effective date.—Wages paid or incurred to a qualified individual who begins work for an employer after September 30, 1996, and before October 1, 1997.

Conference agreement

General rules.—The conference agreement generally follows the Senate amendment with one modification to the food stamps category. Under the modification, members of the eighth targeted group are individuals aged 18–24 who are in families that have been receiving food stamps for at least a six-month (rather than a three-month) period ending on the date of hire. In the case of families that cease to be eligible for food stamps under section 6(o) of the Food Stamp Act of 1977, the six-month requirement is replaced with a requirement that the family has been receiving food stamps for at least three of the five months ending on the date of hire.

Minimum employment period.—Under the conference agreement, no credit is allowed for wages paid unless the eligible individual is employed by the employer for at least 180 days (20 in the case of a qualified summer youth employee) or 400 hours (120 hours in the case of a qualified summer youth employee).

Certification of members of targeted groups.—The conference agreement follows the Senate amendment.

Effective date.—The conference agreement follows the Senate amendment.

2. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

(Sec. 1202 of the House bill and the Senate amendment.)

Present and prior law

For taxable years beginning before January 1, 1995, an employee's gross income and wages did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements. This exclusion, which expired for taxable years beginning after December 31, 1994, was limited to $5,250 of educational assistance with respect to an individual during a calendar year. The exclusion applied whether or not the education was job related. In the absence of this exclusion, educational assistance is excludable from income only if it is related to the employee's current job.

The provision extends the exclusion for employer-provided educational assistance for taxable years beginning after December 31, 1994, and before January 1, 1997. After December 31, 1995, the exclusion would not apply with respect to graduate education.

To the extent employers have previously filed Forms W-2 reporting the amount of educational assistance provided as taxable wages, present Treasury regulations require the employer to file Forms W-2c (i.e., corrected Forms W-2) with the Internal Revenue Service.[26] It is intended that employers also be required to provide copies of Form W-2c to affected employees.

The Secretary is directed to establish expedited procedures for the refund of any overpayment of taxes paid on excludable educational assistance provided in 1995 and 1996, including procedures for waiving the requirement that an employer obtain an employee's signature if the employer demonstrates to the satisfaction of the Secretary that any refund collected by the employer on behalf of the employee will be paid to the employee.

Because the exclusion is extended, no interest and penalties should be imposed if an employer failed to withhold income and employment taxes on excludable educational assistance or failed to report such educational assistance. Further, it is intended that the Secretary establish expedited procedures for refunding any interest and penalties relating to educational assistance previously paid.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1994, and before January 1, 1997.

Senate amendment

The provision is the same as the House bill, except that the exclusion is extended for

[26] Treasury regulation section 31.6051-1(c).

an additional year, through December 31, 1997, and the Senate amendment does not preclude application of the exclusion to graduate courses.

Effective date.—The provision is effective for taxable years beginning after December 31, 1994, and before January 1, 1998.

Conference agreement

The conference agreement follows the House bill, with the following modifications. The exclusion expires with respect to courses beginning after May 31, 1997. The exclusion for graduate courses applies in 1995. In 1996, the exclusion for graduate courses does not apply to courses beginning after June 30, 1996.

3. PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

(Sec. 1203 of the House bill.)

Present law

Generally, the Federal unemployment tax ("FUTA") is imposed on farm operators who (1) employ 10 or more agricultural workers for some portion of 20 different days, each beginning in a different calendar week or (2) have a quarterly payroll for agricultural services of at least $20,000. An exclusion from FUTA was provided, however, for labor performed by an alien admitted to the United States to perform agricultural labor under section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. This exclusion was effective for labor performed before January 1, 1995.

House bill

The House bill permanently extends the FUTA exemption for alien agricultural workers.

Effective date.—Labor performed on or after January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement includes the House bill provision.

4. RESEARCH AND EXPERIMENTAL TAX CREDIT

(Sec. 1203 of the Senate amendment.)

Present and prior law

General rule

Prior to July 1, 1995, section 41 of the Internal Revenue Code provided for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and does not apply to amounts paid or incurred after June 30, 1995.

A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation is commonly referred to as the "university basic research credit" (see sec. 41(e)).

Computation of allowable credit

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayers' qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (so-called "start-up firms") are assigned a fixed-base percentage of 3 percent.[27]

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

To prevent artificial increases in research expenditures among commonly controlled or otherwise related entities, research expenditures and gross receipts of the taxpayer are aggregated with research expenditures and gross receipts of certain related persons for purposes of computing any allowable credit (sec. 41(f)(1)). Special rules apply for computing the credit when a major portion of a business changes hands, under which qualified research expenditures and gross receipts for periods prior to the change or ownership of a trade or business are treated as transferred with the trade or business that gave rise to those expenditures and receipts for purposes of recomputing a taxpayer's fixed-base percentage (sec. 41(f)(3)).

Eligible expenditures

Qualified research expenditures eligible for the research tax credit consist of (1) "in-house" expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid by the taxpayer for qualified research conducted on the taxpayer's behalf (so-called "contract research expenses").

To be eligible for the credit, the research must not only satisfy the requirements of present-law section 174 but must be undertaken for the purpose of discovering information that is technological in nature, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and must pertain to functional aspects, performance, reliability, or quality of a business component. Research does not qualify for the credit if substantially all of the activities relate to style, taste, cosmetic, or seasonal design factors (sec. 41(d)(3)). In addition, research does not qualify for the credit if conducted after the beginning of commercial production of the business component, if related to the adaptation of an existing business component to a particular customer's requirements, if related to the duplication of an existing business component from a physical examination of the component itself or certain other information, or if related to certain efficiency surveys, market research or development, or routine quality control (sec. 41(d)(4)).

Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

House bill

No provision.

Senate amendment

The Senate amendment extends the research tax credit for 18 months—i.e., for the period July 1, 1996, through December 31, 1997 (with a special rule for taxpayers who elect the alternative incremental research credit regime, as described below).

The Senate amendment also expand the definition of "start-up firms" under section 41(c)(3)(B)(I) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983.[28]

In addition, the Senate amendment allow taxpayers to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fix-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made only for a taxpayer's first taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury. Under the amendment, if a taxpayer elects the alternative incremental credit regime for its first taxable year beginning after June 30, 1996, and before July 1, 1997, then all qualified research expenses paid or incurred during such taxable year and the first six months of the following taxable year are treated as qualified research expenses for purposes of computing the taxpayer's credit under the alternative incremental credit regime.

[27] The Omnibus Budget Reconciliation Act of 1993 included a special rule designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm (i.e., any taxpayer that did not have gross receipts in at least three years during the 1984–1988 period) will be assigned a fixed-base percentage of 3 percent for each of its first five taxable years after 1993 in which it incurs qualified research expenditures. In the event that the research credit is extended beyond the scheduled June 30, 1995 expiration date, a start-up firm's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenditures will be a phased-in ratio based on its actual research experience. For all subsequent taxable years, the taxpayer's fixed-base percentage will be its actual ratio of qualified research expenditures to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993 (sec. 41(c)(3)(B)).

[28] In applying the start-up firm rules, the test is whether a taxpayer, in fact, both incurred research expenses (which under the present-law rules would be qualified research expenses) and had gross receipts in a particular year, not whether the taxpayer claimed a research tax credit for that year.

The Senate amendment also provide for a special rule for payments made to certain nonprofit research consortia. Under this special rule, 75 percent of amounts paid to a research consortium for qualified research is treated as qualified research expenses eligible for the research credit (rather than 65 percent under the present-law section 41(b)(3) rule governing contract research expenses) if (1) such research consortium is a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and is organized and operated primarily to conduct scientific research, and (2) such qualified research is conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer.

Effective date.—Under the Senate amendment, extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1996, through December 31, 1997 (with a special rule for taxpayers who elect the alternative incremental research credit regime). The modification to the definition of "start-up firms" is effective for taxable years ending after June 30, 1996. Taxpayers may elect the alternative research credit regime (with lower fixed-base percentages and lower credit rates) for the first taxable year beginning after June 30, 1996, and before July 1, 1997, and the credit is available with respect to all qualified research expenses incurred during such taxable year and during the first six months of the following taxable year. The rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1996.

Conference agreement

The conference agreement extends the research tax credit for 11 months—i.e., for the period July 1, 1996, through May 31, 1997 (with a special rule for taxpayers who elect the alternative incremental research credit regime, as described below).

The conference agreement includes the provision in the Senate amendment to expand the definition of "start-up firms" under section 41(c)(3)(B)(I).

The conference agreement includes the provision in the Senate amendment to allow taxpayers to elect an alternative incremental research credit regime, with the modification that, if a taxpayer elects the alternative incremental credit regime for its first taxable year beginning after June 30, 1996, and before July 1, 1997, then all qualified research expenses paid or incurred during the first 11 months of such taxable year are treated as qualified research expenses for purposes of computing the taxpayers's credit under the alternative incremental credit regime.

The conference agreement includes the special rule of the Senate amendment that treats 75 percent (rather than 65 percent) of payments made to certain nonprofit research consortia as qualified research expenses.

In addition, the conference agreement provides that research credit amounts earned under the conference agreement may not be taken into account in computing estimated tax payments required to be paid for taxable years beginning in 1997.

Effective date.—Under the conference agreement, extension of the research tax credit is effective for expenditures paid or incurred during the period July 1, 1996, through May 31, 1997 with a special rule for taxpayers who elect the alternative incremental research credit regime. The modification to the definition of "start-up firms" is effective for taxable years ending after June 30, 1996. Taxpayers may elect the alternative research credit regime (with lower fixed-base percentages and lower credit rates) for the first taxable year beginning after June 30, 1996, and before July 1, 1997, and the credit is available with respect to all qualified research expenses incurred during the first 11 months of such taxable year. The rule that treats 75 percent of qualified research consortium payments as qualified research expenses is effective for taxable years beginning after June 30, 1996.

5. ORPHAN DRUG TAX CREDIT

(Sec. 1204 of the Senate amendment.)

Present and prior law

Prior to January 1, 1995, a 50-percent nonrefundable tax credit was allowed for qualified clinical testing expenses incurred in testing of certain drugs for rare diseases or conditions, generally referred to as "orphan drugs." Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. A rare disease or condition is defined as one that (1) affects less than 200,000 persons in the United States, or (2) affects more than 200,000 persons, but for which there is no reasonable expectation that businesses could recoup the costs of developing a drug for such disease or condition for U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

Under prior law, the orphan drug tax credit could be claimed by a taxpayer only to the extent that its regular tax liability for the year the credit was earned exceeded its tentative minimum tax for the year, after regular tax was reduced by nonrefundable personal credits and the foreign tax credit.[29] Unused credits could not be carried back or carried forward to reduce taxes in other years.

The orphan drug tax credit expired after December 31, 1994.

House bill

No provision.

Senate amendment

The Senate amendment extends the orphan drug tax credit for 18 months—i.e., for the period July 1, 1996, through December 31, 1997.

In addition, the Senate amendment allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned.

Effective date.—The Senate amendment applies to qualified clinical testing expenses paid or incurred during the period July 1, 1996, through December 31, 1997. The provision allowing for the carry back and carry forward of unused credits is effective for taxable years ending after June 30, 1996. No portion of the unused business credit that is attributable to the orphan drug credit could be carried back under section 39 to a taxable year ending before July 1, 1996.

Conference agreement

The conference agreement extends the orphan drug tax credit for 11 months—i.e., for the period July 1, 1996, through May 31, 1997.

In addition, the conference agreement includes the provision of the Senate amendment that allows taxpayers to carry back unused credits to three years preceding the year the credit is earned and to carry forward unused credits to 15 years following the year the credit is earned.

Effective date.—The conference agreement applies to qualified clinical testing expenses paid or incurred during the period July 1, 1996, through May 31, 1997. The provision allowing for the carry back and carry forward of unused credits is effective for taxable years ending after June 30, 1996. No portion of the unused business credit that is attributable to the orphan drug credit could be carried back under section 39 to a taxable year ending before July 1, 1996.

6. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS

(Sec. 1205 of the Senate amendment.)

Present and prior law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization.[30] However, in the case of a charitable contribution of short-term gain, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose.[31]

In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property. However, under a special rule contained in section 170(e)(5), taxpayers were allowed a deduction equal to the fair market value of "qualified appreciated stock" contributed to a private foundation prior to January 1, 1995. Qualified appreciated stock was defined as publicly traded stock which is capital gain property. The fair-market-value deduction for qualified appreciated stock donations applied only to the extent that total donations made by the donor to private foundations of stock in a particular corporation did not exceed 10 percent of the outstanding stock of that corporation. For this purpose, an individual was treated as making all contributions that were made by any member of the individual's family. This special rule contained in section 170(e)(5) expired after December 31, 1994.

House bill

No provision.

Senate amendment

The Senate amendment extends the special rule contained in section 170(e)(5) for 18

[29] To the extent that the orphan drug tax credit could not be used by reason of the minimum tax limitation, the taxpayer's minimum tax credit was increased (sec. 53(d)(1)(B)(iii)).

[30] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (sec. 170(b) and 170(e)).

[31] As part of the Omnibus Budget Reconciliation Act of 1993, Congress eliminated the treatment of contributions of appreciated property (real, personal, and intangible) as a tax preference for alternative minimum tax (AMT) purposes. Thus, if a taxpayer makes a gift to charity of property (other than short-term gain, inventory, or other ordinary income property, or gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim the same fair-market-value deduction for both regular tax and AMT purposes (subject to present-law percentage limitations).

months—i.e., for contributions of qualified appreciated stock made to private foundations during the period July 1, 1996, through December 31, 1997.

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period July 1, 1996, through December 31, 1997.

Conference agreement

The conference agreement extends the special rule contained in section 170(e)(5) for 11 months—i.e., for contributions of qualified appreciated stock made to private foundations during the period July 1, 1996, through May 31, 1997.[32]

Effective date.—The provision is effective for contributions of qualified appreciated stock to private foundations made during the period July 1, 1996, through May 31, 1997.

7. TAX CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE

(Sec. 1206 of the Senate amendment.)

Present law

Certain fuels produced from "nonconventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or BTU oil barrel equivalent (sec. 29). Qualified fuels must be produced within the United States.

Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations ("tight sands"), or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

In general, the credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996.

The credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of nonconventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).

House bill

No provision.

Senate amendment

The Senate amendment extends the binding contract date for facilities producing synthetic fuels from coal and gas from biomass until the date which is six months after the date of the provision's enactment, and the placed in service date for two years. The present sunset on producing qualifying for the credit is not changed.

Therefore, under the provision, synthetic fuels from coal and gas from biomass produced from a facility placed in service before January 1, 1999, pursuant to a binding contract entered into before the date which is six months after the date of the provision's enactment, will be eligible for the tax credit if produced before January 1, 2008.

[32] If, during this period, a taxpayer contributes qualified appreciated stock as defined in section 170(e)(5) and the amount of such contribution exceeds the percentage limitation under section 170(b)(1)(D), the excess may be carried over to succeeding taxable years. See, e.g., LTR 9444029, LTR 9424020.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with two modifications. First, the conference agreement extends the binding contract date for facilities producing synthetic fuels from coal and gas from biomass through December 31, 1996, rather than for six months after the date of enactment as would have been provided in the Senate amendment. Second, the conference agreement extends the placed in service date for eighteen months, rather than for two years as would have been provided in the Senate amendment. The conference agreement does not change the present-law sunset on production qualifying for the credit.

Therefore, under the conference agreement, synthetic fuels from coal and gas from biomass produced from a facility placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997, will be eligible for the tax credit if produced before January 1, 2008.

Effective date.—The provision is effective on the date of enactment.

8. SUSPEND IMPOSITION OF DIESEL FUEL TAX ON RECREATIONAL MOTORBOATS

(Sec. 1207 of the Senate amendment.)

Present law

Diesel fuel used in recreational motorboats is subject to a 24.4 cents-per-gallon excise tax through December 31, 1999. This tax was enacted by the Omnibus Budget Reconciliation Act of 1993 as a revenue offset for repeal of the excise tax on certain luxury boats. Revenues from this tax are retained in the General Fund.

The diesel fuel tax is imposed on removal of the fuel from a registered terminal facility (i.e., at the "terminal rack"). Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. If fuel on which tax is paid at the terminal rack (i.e., undyed diesel fuel) ultimately is used in a nontaxable use, a refund is allowed. Depending on the aggregate amount of tax to be refunded, this refund may be claimed either by a direct filing with the Internal Revenue Service or as a credit against income tax.

Dyed diesel fuel (fuel on which no tax is paid) may not be used in a taxable use. Present law imposes a penalty equal to the greater of $10 per gallon or $1,000 on persons found to be violating this prohibition.

House bill

No provision.

Senate amendment

The Senate amendment provides that no tax will be imposed on diesel fuel used in recreational motorboats during the period beginning seven days after the date of enactment through December 31, 1997.

In addition, the Senate Finance Committee requested that the Treasury Department study possible alternatives to the current collection regime for motoboat diesel fuel that will provide comparable compliance with the law, and report to the House Committee on Ways and Means and the Senate Committee on Finance no later than April 1, 1997.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

9. EXTENSION OF TRANSITION RULE FOR CERTAIN PUBLICLY TRADED PARTNERSHIPS

(Sec. 1208 of the Senate amendment.)

Present law

Present law provides that, in general, a publicly traded partnership is treated as a corporation for Federal income tax purposes. An exception is provided for certain partnerships, 90 percent or more of whose gross income is passive-type income (as defined for purposes of the provision). A publicly traded partnership is any partnership if (1) partnership interests are traded on an established securities market, or (2) partnership interests are readily tradable on a secondary market (or the substantial equivalent). This provision was added by the Omnibus Budget Reconciliation Act of 1987 (the "1987 Act"), and applied generally to taxable years beginning after December 31, 1987.

The 1987 Act provided a 10-year grandfather rule for certain existing partnerships. Thus, the provision becomes effective for such existing partnerships for taxable years beginning after December 31, 1997. The 1987 Act provides that an existing partnership is one: (1) which was a publicly traded partnership on December 17, 1987; (2) with respect to which a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange commission on or before December 17, 1987, or (3) with respect to which an application was filed with a State regulatory commission on or before December 17, 1987 seeking permission to restructure a portion of a corporation as a publicly traded partnership. A partnership ceases to be treated as an existing partnership if it adds a substantial new line of business after December 17,1987.

House bill

No provision.

Senate amendment

The Senate amendment provides a two-year extension of the ten-year grandfather rule for existing partnerships. Thus, under the Senate amendment, the present-law provision treating publicly traded partnerships as corporations applies to existing partnerships for taxable years beginning after December 31, 1999.

Effective date.—The provision takes effect as if included in the 1987 Act.

Conference agreement

The conference agreement does not include the Senate amendment provision.

C. PROVISIONS RELATING TO S. CORPORATIONS

1. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS

(Sec. 1301 of the House bill and the Senate amendment.)

Present law

The taxable income or loss of an S corporation is taken into account by the corporation's shareholders, rather than by the entity, whether or not such income is distributed. A small business corporation may elect to be treated as an S corporation. A "small business corporation" is defined as a domestic corporation which is not an ineligible corporation and which does not have (1) more than 35 shareholders, (2) as a shareholder, a person (other than certain trusts or estates) who is not an individual, (3) a nonresident alien as a shareholder, and (4) more than one class of stock. For purposes of the 35-shareholder limitation, a husband and wife are treated as one shareholder.

House bill

The House bill increases maximum number of eligible shareholders from 35 to 75.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. ELECTING SMALL BUSINESS TRUSTS

(Sec. 1302 of the House bill and the Senate amendment.)

Present law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts and "qualified subchapter S trusts" may not be shareholders in an S corporation. A "qualified subchapter S trust" is a trust which, under its terms, (1) is required to have only one current income beneficiary (for life), (2) any corpus distributed during the life of the beneficiary must be distributed to the beneficiary, (3) the beneficiary's income interest must terminate at the earlier of the beneficiary's death or the termination of the trust, and (4) if the trust terminates during the beneficiary's life, the trust assets must be distributed to the beneficiary. All the income (as defined for local law purposes) must be currently distributed to that beneficiary. The beneficiary is treated as the owner of the portion of the trust consisting of the stock in the S corporation.

House bill

In general

The House bill allows stock in an S corporation to be held by certain trusts ("electing small business trusts"). In order to qualify for this treatment, all beneficiaries of the trust must be individuals or estates eligible to be S corporation shareholders, except that charitable organizations may hold contingent remainder interests. No interest in the trust may be acquired by purchase. For this purpose, "purchase" means any acquisition of property with a cost basis (determined under sec. 1012). Thus, interests in the trust must be acquired by reason of gift, bequest, etc. A trust must elect to be treated as an electing small business trust.

Each potential current beneficiary of the trust is counted as a shareholder for purposes of the proposed 75 shareholder limitation (or if there were no potential current beneficiaries, the trust would be treated as the shareholder). A potential current income beneficiary means any person, with respect to the applicable period, who is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust.

Treatment of items relating to S corporation stock

The portion of the trust which consists of stock in one or more S corporations is treated as a separate trust for purposes of computing the income tax attributable to the S corporation stock held by the trust. The trust is taxed at the highest individual rate (currently, 39.6 percent on ordinary income and 28 percent on net capital gain) on this portion of the trust's income. The taxable income attributable to this portion includes (1) the items of income, loss, or deduction allocated to it as an S corporation shareholder under the rules of subchapter S, (2) gain or loss from the sale of the S corporation stock, and (3) to the extent provided in regulations, any state or local income taxes and administrative expenses of the trust properly allocable to the S corporation stock. Otherwise allowable capital losses are allowed only to the extent of capital gains.

In computing the trust's income tax on this portion of the trust, no deduction is allowed for amounts distributed to beneficiaries, and no deduction or credit is allowed for any item other than the items described above. This income is not included in the distributable net income of the trust, and thus is not included in the beneficiaries' income. No item relating to the S corporation stock could be apportioned to any beneficiary.

On the termination of all or any portion of an electing small business trust the loss carryovers or excess deductions referred to in section 642(h) is taken into account by the entire trust, subject to the usual rules on termination of the entire trust.

Treatment of remainder of items held by trust

In determining the tax liability with regard to the remaining portion of the trust, the items taken into account by the subchapter S portion of the trust are disregarded. Although distributions from the trust are deductible in computing the taxable income on this portion of the trust, under the usual rules of subchapter J, the trust's distributable net income does not include any income attributable to the S corporation stock.

Termination of trust and conforming amendment applicable to all trusts

Where the trust terminates before the end of the S corporation's taxable year, the trust takes into account its pro rata share of S corporation items for its final year. The bill makes a conforming amendment applicable to all trusts and estates clarifying that this is the present-law treatment of trusts and estates that terminate before the end of the S corporation's taxable year.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS

(Sec. 1303 of the House bill and the Senate amendment.)

Present law

Under present law, trusts other than grantor trusts, voting trusts, certain testamentary trusts and "qualified subchapter S trusts" may not be shareholders in a S corporation. A grantor trust may remain an S corporation shareholder for 60 days after the death of the grantor. The 60-day period is extended to two years if the entire corpus of the trust is includable in the gross estate of the deemed owner. In addition, a trust may be an S corporation shareholder for 60 days after the transfer of S corporation pursuant to a will.

House bill

The House bill expands the post-death holding period to two years for all testamentary trusts.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT

(Sec. 1304 of the House bill and the Senate amendment.)

Present law

A small business corporation eligible to be an S corporation may not have more than one class of stock. Certain debt ("straight debt") is not treated as a second class of stock so long as such debt is an unconditional promise to pay on demand or on a specified date a sum certain in money if: (1) the interest rate (and interest payment dates) are not contingent on profits, the borrower's discretion, or similar factors; (2) there is no convertibility (directly or indirectly) into stock, and (3) the creditor is an individual (other than a nonresident alien), an estate, or certain qualified trusts.

House bill

The definition of "straight debt" is expanded to include debt held by creditors, other than individuals, that are actively and regularly engaged in the business of lending money.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS

(Sec. 1305 of the House bill and the Senate amendment.)

Present law

Under present law, if the Internal Revenue Service ("IRS") determines that a corporation's Subchapter S election is inadvertently terminated, the IRS can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Such waivers generally are obtained through the issuance of a private letter ruling. Present law does not grant the IRS the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The IRS may not validate a late election.

House bill

Under the House bill, the authority of the IRS to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both. The House bill also allows the IRS to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely. It is intended that the IRS be reasonable in exercising this authority and apply standards that are similar to those applied under present law to inadvertent subchapter S terminations and other late or invalid elections.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The

conferees wish to clarify that in exercising the authority provided under the provision, the IRS may consider relevant information provided by any affected shareholder (including a person who became a shareholder in a subsequent year) before determining the validity of the S election for the taxable year in question.

6. AGREEMENT TO TERMINATE YEAR

(Sec. 1306 of the House bill and the Senate amendment.)

Present law

In general, each item of S corporation income, deduction and loss is allocated to shareholders on a per-share, per-day basis. However, if any shareholder terminates his or her interest in an S corporation during a taxable year, the S corporation, with the consent of all its shareholders, may elect to allocate S corporation items by closing its books as of the date of such termination rather than apply the per-share, per-day rule.

House bill

The House bill provides that, under regulations to be prescribed by the Secretary of the Treasury, the election to close the books of the S corporation upon the termination of a shareholder's interest is made by all affected shareholders and the corporation, rather than by all shareholders. The closing of the books applies only to the affected shareholders. For this purpose, "affected shareholders" means any shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the year. If a shareholder transferred shares to the corporation, "affected shareholders" includes all persons who were shareholders during the year.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. EXPANSION OF POST-TERMINATION TRANSITION PERIOD

(Sec. 1307 of the House bill and the Senate amendment.)

Present law

Distributions made by a former S corporation during its post-termination period are treated in the same manner as if the distributions were made by an S corporation (e.g., treated by shareholders as nontaxable distributions to the extent of the accumulated adjustment account). Distributions made after the post-termination period are generally treated as made by a C corporation (i.e., treated by shareholders as taxable dividends to the extent of earnings and profits).

The "post-termination period" is the period beginning on the day after the last day of the last taxable year of the S corporation and ending on the later of: (1) a date that is one year later, or (2) the due date for filing the return for the last taxable year and the 120-day period beginning on the date of a determination that the corporation's S corporation election had terminated for a previous taxable year.

In addition, the audit procedures adopted by the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") with respect to partnerships also apply to S corporations. Thus, the tax treatment of items is determined at the corporate, rather than individual level.

House bill

The present-law definition of post-termination period is expanded to include the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer that follows the termination of the S corporation's election and that adjusts a subchapter S item of income, loss or deduction of the S corporation during the S period. In addition, the definition of "determination" is expanded to include a final disposition of the Secretary of the Treasury of a claim for refund and, under regulations, certain agreements between the Secretary and any person, relating to the tax liability of the person.

In addition, the House bill repeals the TEFRA audit provisions applicable to S corporations and would provide other rules to require consistency between the returns of the S corporation and its shareholders.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES

(Sec. 1308 of the House bill and the Senate amendment.)

Present law

A small business corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). Thus, an S corporation may not own 80 percent or more of the stock of another corporation (whether an S corporation or a C corporation).

In addition, a small business corporation may not have as a shareholder another corporation (whether an S corporation or a C corporation).

House bill

An S corporation is allowed to own 80 percent or more of the stock of a C corporation. The C corporation subsidiary could elect to join in the filing of a consolidated return with its affiliated C corporations. An S corporation is not allowed to join in such election. Dividends received by an S corporation from a C corporation in which the S corporation has an 80 percent or greater ownership stake is not treated as passive investment income for purposes of sections 1362 and 1375 to the extent the dividends are attributable to the earnings and profits of the C corporation derived from the active conduct of a trade or business.

In addition, an S corporation is allowed to own a qualified subchapter S subsidiary. The term "qualified subchapter S subsidiary" means a domestic corporation that is not an ineligible corporation (i.e., a corporation that would be eligible to be an S corporation if the stock of the corporation were held directly by the shareholders of its parent S corporation) if (1) 100 percent of the stock of the subsidiary were held by its S corporation parent and (2) for which the parent elects to treat as a qualified subchapter S subsidiary. Under the election, the qualified subchapter S subsidiary is not treated as a separate corporation and all the assets, liabilities, and items of income, deduction, and credit of the subsidiary are treated as the assets, liabilities, and items of income, deduction, and credit of the parent S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

9. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS

(Sec. 1309 of the House bill and the Senate amendment.)

Present law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of property.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.

In addition, if the S corporation has accumulated earnings and profits, any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

House bill

The House bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The House bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

10. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C

(Sec. 1310 of the House bill and the Senate amendment.)

Present law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purpose of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). In 1988, the Internal Revenue Service took the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[33] In 1992, the Internal Revenue Service reversed its position, stating that the prior ruling was incorrect.[34]

House bill

The House bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the provision clarifies that the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation also will be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

[33] PLR 8818049, (Feb. 10, 1988).

[34] PLR 9245004, (July 28, 1992).

11. ELIMINATION OF CERTAIN EARNINGS AND PROFITS

(Sec. 1311 of the House bill and the Senate amendment.)

Present law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits. As a result of this rule, a shareholder may later be required to include in his or her income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

House bill

The House bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1995, the accumulated earnings and profits of the corporation as of the beginning of that year is reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits are solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his or her share of the taxable income of the S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

12. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER THE AT-RISK RULES

(Sec. 1312 of the House bill and the Senate amendment.)

Present law

Under section 1366, the amount of loss an S corporation shareholder may take into account cannot exceed the sum of the shareholder's adjusted basis in his or her stock of the corporation and the unadjusted basis in any indebtedness of the corporation to the shareholder. Any disallowed loss is carried forward to the next taxable year. Any loss that is disallowed for the last taxable year of the S corporation may be carried forward to the post-termination period. The "post-termination period" is the period beginning on the day after the last day of the last taxable year of the S corporation and ending on the later of: (1) a date that is one year later, or (2) the due date for filing the return for the last taxable year and the 120-day period beginning on the date of a determination that the corporation's S corporation election had terminated for a previous taxable year.

In addition, under section 465, a shareholder of an S corporation may not deduct losses that are flowed through from the corporation to the extent the shareholder is not "at-risk" with respect to the loss. Any loss not deductible in one taxable year because of the at-risk rules is carried forward to the next taxable year.

House bill

Losses of an S corporation that are suspended under the at-risk rules of section 465 are carried forward to the S corporation's post-termination period.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME

(Sec. 1313 of the house bill and the Senate amendment.)

Present law

Income in respect to a decedent ("IRD") generally consists of items of gross income that accrued during the decedent's lifetime but were not includible in the decedent's income before his or her death under his or her method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to such person (sec. 681(c)). The cost or basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis is often referred to as "stepped-up basis." Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its value is attributable to items constituting IRD (Treas. reg. sec. 1.742-1). This rule insures that the items of IRD held by a partnership are not later offset by a loss arising from a stepped-up basis. Although S corporation income is taxed to its shareholders in a manner similar to the taxation of a partnership and its partners, no comparable regulation require a reduction in the basis of stock in an S corporation acquired from a decedent where the S corporation holds items of IRD.

House bill

The House bill provides that a person acquiring stock in an S corporation from a decedent would treat as IRD his or her pro rata share of any item of income of the corporation that would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock in an S corporation acquired from a decedent is reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

Effective date.—The provision applies with respect to decedent dying after the date of enactment.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

14. S CORPORATION ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS

(Sec. 1314 of the House bill and the Senate amendment.)

Present law

Under present-law section 1237, a lot or parcel of land held by a taxpayer other than a corporation generally is not treated as ordinary income property solely by reason of the land being subdivided if: (1) such parcel had not previously been held as ordinary income property and if in the year of sale, the taxpayer did not hold other real property; (2) no substantial improvement has been made on the land by the taxpayer, a related party, a lessee, or a government; and (3) the land has been held by the taxpayer for five years.

House bill

The House bill allows the present-law capital gains presumption in the case of land held by an S corporation. It is expected that rules similar to the attribution rules for partnerships will apply to S corporation (Treas. reg. sec. 1. 1237–1(b)(3)).

Effective date.—The provision is effective for sales in taxable years beginning after December 31, 1996.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

15. CERTAIN FINANCIAL INSTITUTIONS AS ELIGIBLE CORPORATIONS

(Sec. 1315 of the Senate amendment.)

Present law

A small business corporation may elect to be treated as an S corporation. A "small business corporation" is defined as a domestic corporation which is not an ineligible corporation and which meets certain other requirements. An "ineligible corporation" means any corporation which is a member of an affiliated group, certain depository financial institutions (i.e., banks, domestic savings and loan associations, mutual savings banks, and certain cooperative banks), certain insurance companies, a section 936 corporation, or a DISC or former DISC.

House bill

No provision.

Senate amendment

A bank (as defined in sec. 581) is allowed to be an eligible small business corporation unless such institution uses a reserve method of accounting for bad debts.

Effective date.—The provision applies to taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

16. CERTAIN TAX-EXEMPT ENTITIES ALLOWED TO BE SHAREHOLDERS

(Sec. 1316 of the Senate amendment.)

Present law

A tax-exempt organization described in section 401(a) (relating to qualified retirement plan trusts) or section 501(c)(3) (relating to certain charitable organizations) cannot be a shareholder in an S corporation.

House bill

No provision.

Senate amendment

Tax-exempt organizations described in Code sections 401(a) and 501(c)(3) ("qualified tax-exempt shareholders") are allowed to be shareholders in S corporations. For purposes of determining the number of shareholders of an S corporation, a qualified tax-exempt shareholder will count as one shareholder.

Items of income or loss of an S corporation will flow-through to qualified tax-exempt shareholders as unrelated business taxable income ("UBTI"), regardless of the source or nature of such income (e.g., passive income of an S corporation will flow through to the qualified tax-exempt shareholders as UBTI.) In addition, gain or loss on the sale or other disposition of stock of an S corporation by a qualified tax-exempt shareholder will be treated as UBTI.

In addition, certain special tax rules relating to employee stock ownership plans ("ESOPs") will not apply with respect to S corporation stock held by the ESOP.

Effective date.—The provision applies to taxable years beginning after December 31, 1997.

Conference agreement

The conference agreement generally follows the Senate amendment. In addition, the conference agreement provides that if a qualified tax-exempt shareholder acquired, by purchase, stock in an S corporation (whether such stock was acquired when the corporation was a C or an S corporation) and receives a dividend distribution with respect to such S corporation stock (i.e., a distribution of subchapter C earnings and profits), except as provided in regulations the shareholder must reduce its basis in the stock by the amount of the dividend. Regulations may provide that the basis reduction only would apply to the extent the dividend is deemed to be allocable to subchapter C earnings and profits that accrued on or before the date of acquisition.

17. REELECTING SUBCHAPTER S STATUS

(Sec. 1315(b) of the House bill and sec. 1317(b) of the Senate amendment.)

Present law

A small business corporation that terminates its subchapter S election (whether by revocation or otherwise) may not make another election to be an S corporation for five taxable years unless the Secretary of the Treasury consents to such election.

House bill

For purposes of the five-year rule, any termination of subchapter S status in effect immediately before the date of enactment of the proposal is not be taken into account. Thus, any small business corporation that had terminated its S corporation election within the five-year period before the date of enactment may re-elect subchapter S status upon enactment of the bill without the consent of the Secretary of the Treasury.

Effective date.—The provision is effective for terminations occurring in a taxable year beginning before January 1, 1997.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

II. PENSION SIMPLIFICATION PROVISIONS

A. SIMPLIFIED DISTRIBUTION RULES

(Secs. 1401–1404 of the House bill and the Senate amendment.)

Present law

In general, a distribution of benefits from a tax-favored retirement arrangement (i.e., a qualified plan, a qualified annuity plan, and a tax-sheltered annuity contract (sec. 403(b) annuity)) generally is includable in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities.

Lump-sum distributions

Lump-sum distributions from qualified plans and qualified annuity plans are eligible for special 5-year forward averaging. In general, a lump-sum distribution is a distribution within one taxable year of the balance to the credit of an employee that becomes payable to the recipient first, on account of the death of the employee, second, after the employee attains age 59½, third, on account of the employee's separation from service, or fourth, in the case of self-employed individuals, on account of disability. Lump-sum treatment is not available for distributions from a tax-sheltered annuity.

A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. In general, this election allows the taxpayer to pay a separate tax on the lump-sum distribution that approximates the tax that would be due if the lump-sum distribution were received in 5 equal installments. If the election is made, the taxpayer is entitled to deduct the amount of the lump-sum distribution from gross income. Only one such election on or after 59½ may be made with respect to any employee.

Under the Tax Reform Act of 1986 (the "1986 Act"), individuals who attained age 50 by January 1, 1986, can elect to use 10-year averaging (under the rates in effect prior to the 1986 Act) in lieu of 50 year averaging. In addition, such individuals may elect to retain capital gains treatment with respect to the pre-1974 portion of a lump sum distribution.

Exclusion of $5,000 for employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Amounts received as an annuity under a qualified plan generally are includable in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity.

Under a simplified alternative method provided by the IRS, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method.

In no event can the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Required distributions

Present law provides uniform minimum distribution rules generally applicable to all types of tax-favored retirement vehicles, including qualified plans and annuities, IRAs, and tax-sheltered annuities.

Under present law, a qualified plan is required to provide that the entire interest of each participant will be distributed beginning no later than the participant's required

beginning date (sec. 401(a)(9)). The required beginning date is generally April 1 of the calendar year following the calendar year in which the plan participant or IRA owner attains age 70½. In the case of a governmental plan or a church plan, the required beginning date is the later of first, such April 1, or second, the April 1 of the year following the year in which the participant retires.

House bill

Lump-sum distributions

The House bill repeals 5-year averaging for lump-sum distributions from qualified plans. Thus, the House bill repeals the separate tax paid on a lump-sum distribution and also repeals the deduction from gross income for taxpayers who elect to pay the separate tax on a lump-sum distribution.

Effective date.—The provision is effective for taxable years beginning after December 31, 1998. The House bill preserves the ability of certain individuals to elect 10-year averaging and capital gains treatment as provided under the Tax Reform Act of 1986.

Exclusion of $5,000 for employer-provided death benefits

The House bill repeals the $5,000 exclusion for employer-provided death benefits.

Effective date.—The provision applies with respect to decedents dying after date of enactment.

Recovery of basis

The House bill provides that basis recovery on payments from qualified plans generally is determined under a method similar to the present-law simplified alternative method provided by the IRS. The portion of each annuity payment that represents a return of basis equals to the employee's total basis as of the annuity starting date, divided by the number of anticipated payments under the following table:

Age	*Number of payments:*
Not more than 55	360
56–60	310
61–65	260
66–70	210
More than 70	160

Effective date.—The provision is effective with respect to annuity starting dates beginning 90 days after the date of enactment.

Required distributions

The House bill modifies the rule that requires all participants in qualified plans to commence distributions by age 70½ without regard to whether the participant is still employed by the employer and generally replaces it with the rule in effect prior to the Tax Reform Act of 1986. Under the House bill, distributions generally are required to begin by April 1 of the calendar year following the later of first, the calendar year in which the employee attains age 70½ or second, the calendar year in which the employee retires. However, in the case of a 5-percent owner of the employer, distributions are required to begin no later than the April 1 of the calendar year following the year in which the 5-percent owner attains age 70½.

In addition, in the case of an employee (other than a 5-percent owner) who retires in a calendar year after attaining age 70½, the House bill generally requires the employee's accrued benefit to be actuarially increased to take into account the period after age 70½ in which the employee was not receiving benefits under the plan. Thus, under the House bill, the employee's accrued benefit is required to reflect the value of benefits that the employee would have received if the employee had retired at age 70½ and had begun receiving benefits at that time.

The actuarial adjustment rule and the rule requiring 5-percent owners to begin distributions after attainment of age 70½ does not apply, under the House bill, in the case of a governmental plan or church plan.

Effective date.—The provision is effective for years beginning after December 31, 1996. If a participant is currently receiving distributions, but does not have to under the provision, it is intended that a plan (or annuity contract) could (but would not be required to) permit the participant, with his or her consent, with his or her consent to stop receiving distributions until such distributions are required under the provision.

Senate amendment

Lump-sum distributions

The Senate amendment is the same as the House bill.

Effective date.—The provision is effective for taxable years beginning after December 31, 1999.

Exclusion of $5,000 for employer-provided death benefits

The Senate amendment is the same as the House bill.

Recovery of basis

The Senate amendment is the same as the House bill.

Required distributions

The Senate amendment is the same as the House bill.

Conference agreement

Lump-sum distributions

The conference agreement follows the Senate amendment.

Exclusion of $5,000 for employer-provided death benefits

The conference agreement follows the Senate amendment.

Recovery of basis

The conference agreement follows the Senate amendment.

Required distributions

The conference agreement follows the House bill and the Senate amendment. The conferees intend that the actuarial adjustment rule does not apply in the case of a defined contribution plan.

B. INCREASED ACCESS TO RETIREMENT SAVINGS PLANS

1. ESTABLISH SIMPLE RETIREMENT PLANS FOR EMPLOYEES OF SMALL EMPLOYERS

(Secs. 1421–1422 of the House bill and the Senate amendment.)

Present law

Present law does not contain rules relating to SIMPLE retirement plans. However, present law does provide a number of ways in which individuals can save for retirement on a tax-favored basis. These include employer-sponsored retirement plans that meet the requirements of the Internal Revenue Code (a "qualified plan") and individual retirement arrangements ("IRAs"). Employees can earn significant retirement benefits under employer-sponsored retirement plans. However, in order to receive tax-favored treatment, such plans must comply with a variety of rules, including complex nondiscrimination and administrative rules (including top-heavy rules). Such plans are also subject to certain requirements under the labor law provisions of the Employee Retirement Income Security Act of 1974 ("ERISA").

Contributions to an IRA can also be made by an employer at the election of an employee under a salary reduction simplified employee pension ("SARSEP"). Under SARSEPs, which are not qualified plans, employees can elect to have contributions made to the SARSEP or to receive the contributions in cash. The amount elects to have contributed to the SARSEP is not currently includible in income.

House bill

In general

The House bill creates a simplified retirement plan for small business called the savings incentive match plan for employees ("SIMPLE") retirement plan. SIMPLE plans can be adopted by employers who employ 100 or fewer employees on any day during the year and who do not maintain another employer-sponsor retirement plan. A SIMPLE plan can be either an IRA for each employee or part of a qualified cash or deferred arrangement ("401(k) plan"). If established in IRA form, a SIMPLE plan is not subject to the nondiscrimination rules generally applicable to qualified plans (including the top-heavy rules) and simplified reporting requirements apply. Within limits, contributions to a SIMPLE plan are not taxable until withdrawn.

A SIMPLE plan can also be adopted as part of a 401(k) plan. In that case, the plan does not have to satisfy the special nondiscrimination tests applicable to 401(k) plans and is not subject to the top-heavy rules. The other qualified plan rules continue to apply.

SIMPLE retirement plans in IRA form.

In general.—A SIMPLE retirement plan allows employees to make elective contributions to an IRA. Employee contributions have to be expressed as a percentage of the employee's compensation, and cannot exceed $6,000 per year. The $6,000 dollar limit is indexed for inflation in $500 increments.

Under the House bill, the employer is required to satisfy one of two contribution formulas. Under the matching contribution formula, the employer generally is required to match employee elective contributions on a dollar-for-dollar basis up to 3 percent of the employee's compensation. Under a special rule, the employer can elect a lower percentage matching contribution for all employees (but not less than 1 percent of each employee's compensation). A lower percentage cannot be elected for more than 2 out of any 5 years.

Alternatively, for any year, in lieu of making matching contributions, an employer may elect to make a 2 percent of compensation nonelective contribution on behalf of each eligible employee with at least $5,000 in compensation for such year. No contributions other than employee elective contributions and required employer matching contributions (or, alternatively, required employer nonelective contributions) can be made to a SIMPLE account.

Each employee of the employer who received at least $5,000 in compensation from the employer during any 2 prior years and who is reasonably expected to receive at least $5,000 in compensation during the year generally must be eligible to participate in the SIMPLE plan. Self-employed individuals can participate in a SIMPLE plan.

All contributions to an employee's SIMPLE account have to be fully vested.

Tax treatment of SIMPLE accounts, contributions, and distributions.—Contributions to a SIMPLE account generally are deductible by the employer. In the case of matching contributions, the employer is allowed a deduction for a year only if the contributions are made by the due date (including extensions) for the employer's tax return. Contributions

to a SIMPLE account are excludable from the employee's income. SIMPLE accounts, like IRAs, are not subject to tax. Distributions from a SIMPLE retirement account generally are taxed under the rules applicable to IRAs. Thus, they are includable in income when withdrawn. Tax-free rollovers can be made from one SIMPLE account to another. A SIMPLE account can be rolled over to an IRA on a tax-free basis after a two-year period has expired since the individual first participated in the SIMPLE plan. To the extent an employee is no longer participating in a SIMPLE plan (e.g., the employee has terminated employment) and 2 years have expired since the employee first participated in the SIMPLE plan, the employee's SIMPLE account is treated as an IRA.

Early withdrawals from a SIMPLE account generally are subject to the 10-percent early withdrawal tax applicable to IRAs. However, withdrawals of contributions during the 2-year period beginning on the date the employee first participated in the SIMPLE plan are subject to a 25-percent early withdrawal tax (rather than 10 percent).

Employer matching or nonelective contributions to a SIMPLE account are not treated as wages for employment tax purposes.

Administrative requirements.—Each eligible employee can elect, with the 30-day period before the beginning of any year (or the 30-day period before first becoming eligible to participate), to participate in the SIMPLE plan (i.e., to make elective deferrals), and to modify any previous elections regarding the amount of contributions. An employer is required to contribute employees' elective deferrals to the employee's SIMPLE account within 30 days after the end of the month to which the contributions relate. Employees must be allowed to terminate participation in the SIMPLE plan at any time during the year (i.e., to stop making contributions). The plan can provide that an employee who terminates participation cannot resume participation until the following year. A plan can permit (but is not required to permit) an individual to make other changes to his or her salary reduction contribution election during the year (e.g., reduce contributions). It is intended that an employer is permitted to designate a SIMPLE account trustee to which contributions on behalf of eligible employees are made.

Definitions.—For purposes of the rules relating to SIMPLE plans, compensation means compensation required to be reported by the employer on Form W-2, plus any elective deferrals of the employee. In the case of a self-employed individual, compensation means net earnings from self-employment. The term employer includes the employer and related employers. Related employers include trades or businesses under common control (whether incorporated or not), controlled groups of corporations, and affiliated service groups. In addition, the leased employee rules apply.

SIMPLE 401(k) plans

In general, under the House bill, a cash or deferred arrangement (i.e., 401(k) plan), is deemed to satisfy the special nondiscrimination tests applicable to employee elective deferrals and employer matching contributions if the plan satisfies the contribution requirements applicable to SIMPLE plans. In addition, the plan is not subject to the top-heavy rules for any year for which this safe harbor is satisfied. The plan is subject to the other qualified plan rules.

The safe harbor is satisfied if, for the year, the employer does not maintain another qualified plan and (1) employees' elective deferrals are limited to no more than $6,000, (2) the employer matches employees' elective deferrals up to 3 percent of compensation (or, alternatively, makes a 2 percent of compensation nonelective contribution on behalf of all eligible employees with at least $5,000 in compensation), and (3) no other contributions are made to the arrangement. Contributions under the safe harbor have to be 100 percent vested. The employer cannot reduce the matching percentage below 3 percent of compensation.

Repeal of SARSEPs

Under the House bill, SARSEPs are repealed.

Effective date

The provision relating to SIMPLE plans are effective for years beginning after December 31, 1996. The repeal of SARSEPs applies to years beginning after December 31, 1996, unless the SARSEP was established before January 1, 1997. Consequently, an employer is not permitted to establish a SARSEP after December 31, 1996. SARSEPs established before January 1, 1997, can continue to receive contributions under present-law rules, and new employees of the employer hired after December 31, 1996, can participate in the SARSEP in accordance with such rules.

Senate amendment

The Senate amendment is the same as the House bill, except for the following modifications.

Under the Senate amendment, a SIMPLE plan can be adopted by employers who employed 100 employees or less with at least $5,000 in compensation for the preceding year. Employers who no longer qualify are given a 2-year grace period to continue to maintain the plan.

Under the Senate amendment, eligible employees are given 60 days before the beginning of any year (or the 60-day period before first beginning eligible to participate in the plan) to elect to participate in the SIMPLE plan.

For purposes of the 2 percent of compensation nonelective contribution formula, no more than $150,000 of compensation can be taken into account in any year with respect to any eligible employee.

The Senate amendment clarifies that an employer is permitted to designate a SIMPLE account trustee to which contributions on behalf of eligible employees are made. The Senate amendment also amends title I of ERISA to provide that only simplified reporting requirements apply to SIMPLE plans and so that the employer (and any other plan fiduciary) will not be subject to fiduciary liability resulting from the employee (or beneficiary) exercising control over the assets in the SIMPLE account. For this purpose, an employee (or beneficiary) is treated as exercising control over the assets in his or her account upon the earlier of (1) an affirmative election with respect to the initial investment of any contributions, (2) a rollover contribution (including a trustee-to-trustee transfer) to another SIMPLE account or IRA, or (3) one year after the SIMPLE account is established.

Conference agreement

The conference agreement follows the Senate amendment.

2. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(K)

(Sec. 1426 of the House bill and the Senate amendment.)

Present law

Under present law, tax-exempt and State and local government organizations are generally prohibited from establishing qualified cash or deferred arrangements (sec. 401(k) plans. Qualified cash or deferred arrangements (1) or rural cooperatives, (2) adopted by State and local governments before May 6, 1986, or (3) adopted by tax-exempt organizations before July 2, 1986, are not subject to this prohibition.

House bill

The House bill allows tax-exempt organizations (including, for this purpose, Indian tribal governments, a subdivision of an Indian tribal government, an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of such entities) to maintain qualified cash or deferred arrangements. The House bill retains the present-law prohibition against the maintenance of cash or deferred arrangements by State and local governments except to the extent it may apply to Indian tribal governments.

Effective date.—The provision is effective for plan years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill, except that the legislative history to the Senate amendment provides that no inference is intended with respect to whether Indian tribal governments are permitted to maintain qualified cash or deferred arrangements under present law.

Conference agreement

The conference agreement follows the Senate amendment. Thus, under the conference agreement, no inference is intended with respect to whether Indian tribal governments are permitted to maintain qualified cash or deferred arrangements under present law.

3. SPOUSAL IRAS

(Sec. 1427 of the Senate amendment.)

Present law

Within limits, an individual is allowed a deduction for contributions to an individual retirement account or an individual retirement annuity (an "IRA"). An individual generally is not subject to income tax on amounts held on an IRA, including earnings on contributions, until the amounts are withdrawn from the IRA.

Under present law, the maximum deductible contribution that can be made to an IRA generally is the lesser $2,000 or 100 percent of an individual's compensation (earned income in the case of a self-employed individual). In the case of a married individual whose spouse has no compensation (or elects to be treated as having no compensation), the $2,000 maximum limit on IRA contributions is increased to $2,250.

House bill

No provision.

Senate amendment.

The Senate amendment permits deductible IRA contributions of up to $2,000 to be made for each spouse (including, for example, a homemaker who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount.

Effective date.—The provision is effective for taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

C. NONDISCRIMINATION PROVISIONS

1. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES AND REPEAL OF FAMILY AGGREGATION RULES

(Sec. 1431 of the House bill and the Senate amendment.)

Present law

Definition of highly compensated employee

An employee, including a self-employed individual, is treated as highly compensated if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer, (2) received more than $100,000 (for 1996) in annual compensation from the employer, (3) received more than $66,000 (for 1996) in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year, or (4) was an officer of the employer who received compensation in excess of $60,000 (for 1996). If, for any year, no officer has compensation in excess of the threshold, then the highest paid officer of the employer is treated as a highly compensated employee.

Family aggregation rules

A special rule applies with respect to the treatment of family members of certain highly compensated employees for purposes of the nondiscrimination rules applicable to qualified plans. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top-10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top-10 employees by compensation.

Similar family aggregation rules apply with respect to the $150,000 (for 1996) limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(1)).

House bill

Definition of highly compensated employee

Under the House bill, an employee is treated as highly compensated if the employee (1) was a 5-percent owner of the employer at any tie during the year or the preceding year or (2) had compensation for the preceding year in excess of $80,000 (indexed for inflation) and the employee was in the top 20 percent employees by compensation for such year. The House bill also repeals the rule requiring the highest paid officer to be treated as a highly compensated employee.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Family aggregation rules

The House bill repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

Definition of highly compensated employee

The Senate amendment is the same as the House bill, except an employee who had compensation for the preceding year in excess of $80,000 is treated as highly compensated without regard to whether the employee was in the top 20 percent of employees by compensation.

Family aggregation rules

The Senate amendment is the same as the House bill.

Conference agreement

Definition of highly compensated employee

The conference agreement follows the House bill and the Senate amendment. Thus, under the conference agreement, a plan may elect for a plan year to use either the definition of highly compensated employee in the House bill or the Senate amendment.

Family aggregation rules

The conference agreement follows the House bill and the Senate amendment.

2. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS

(Sec. 1432 of the House bill and the Senate amendment.)

Present law

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (a) 50 employees of the employer or (b) 40 percent of all employees of the employer (sec. 401(a)(26)). This requirement may not be satisfied by aggregating comparable plans, but may be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees.

House bill

The House bill provides that the minimum participation rule applies only to defined benefit pension plans. In addition, the House bill provides that a defined benefit pension plan does not satisfy the rule unless it benefits no fewer than the lesser of (1) 50 employees or (2) the greater of (a) 40 percent of all employees of the employer or (b) 2 employees (1 employee if there is only 1 employee).

The House bill provides that the requirement that a line of business has at least 50 employees does not apply in determining whether a plan satisfies the minimum participation rule on a separate line of business basis.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS

(Sec. 1433 of the House bill and the Senate amendment.)

Present law

Under present law, a special nondiscrimination test applies to qualified cash or deferred arrangements (sec. 401(k) plans). The special nondiscrimination test is satisfied if the actual deferral percentage ("ADP") for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points.

Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test (the actual contribution percentage ("ACP") test) similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements. Employer matching contributions that satisfy certain requirements can be used to satisfy the ADP test, but, to the extent so used, such contributions cannot be considered when calculating the ACP test.

A plan that would otherwise fail to meet the special nondiscrimination test for qualified cash or deferred arrangements is not treated as failing such test if excess contributions (with allocable income) are distributed to the employee or, in accordance with Treasury regulations, recharacterized as after-tax employee contributions. For purposes of this rule, in determining the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral percentages. A similar rule applies to employer matching contributions.

House bill

Prior-year data

The House bill modifies the special nondiscrimination tests applicable to elective deferrals and employer matching and after-tax employee contributions to provide that the maximum permitted actual deferral percentage (and actual contribution percentage) for highly compensated employees for the year is determined by reference to the actual deferral percentage (and actual contribution percentage) for nonhighly compensated employees for the preceding, rather than the current, year. A special rule applies for the first plan year.

Alternatively, under the House bill, an employer is allowed to elect to use the current year actual deferral percentage (and actual contribution percentage). Such an election can be revoked only as provided by the Secretary.

Safe harbor for cash or deferred arrangements

The House bill provides that a cash or deferred arrangement satisfies the special nondiscrimination tests if the plan satisfies one of two contribution requirements and satisfies a notice requirement.

A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if the plan either first, satisfies a matching contribution requirement or second, the employer makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes elective contributions under the arrangement.

A plan satisfies the matching contribution requirement if, under the arrangement: first, the employer makes a matching contribution on behalf of each nonhighly compensated employee that is equal to (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and second, the rate of match with respect to any elective contribution for highly compensated employees is not greater than the rate of match for nonhighly compensated employees.

Alternatively, if the rate of matching contribution with respect to any rate of elective contribution requirement is not equal to the percentages described in the preceding paragraph, the matching contribution requirement will be deemed to be satisfied if first, the rate of an employer's matching contribution does not increase as an employer's rate

of elective contribution increases and second, the aggregate amount of matching contributions at such rate of elective contribution at least equals the aggregate amount of matching contributions that would be made if matching contributions satisfied the above percentage requirements.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are required to be nonforfeitable and are subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2)(B) and (C)). It is intended that employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules can be used to satisfy other qualified retirement plan nondiscrimination rules (except the special nondiscrimination test applicable to employer matching contributions (the ACP test)). So, for example, a cross-tested defined contribution plan that includes a qualified cash or deferred arrangement can consider such employer matching and nonelective contributions in testing.

The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice, within a reasonable period before any year, of the employee's rights and obligations under the arrangement.

Alternative method of satisfying special nondiscrimination test for matching contributions

The House bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions (the ACP test). Under this safe harbor, a plan is treated as meeting the special nondiscrimination test if first, the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and second, the plan satisfies a special limitation on matching contributions.

The limitation on matching contributions is satisfied if: first, the employer matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation; second, the rate of an employer's matching contribution does not increase as the rate of an employee's contributions or elective deferrals increases; and third, the matching contribution with respect to any highly compensated employee at any rate of employee contribution or elective deferral is not greater than that with respect to an employee who is not highly compensated.

Any after-tax employee contributions made under the qualified cash or deferred arrangement will continue to be tested under the ACP test. Employer matching and nonelective contributions used to satisfy the safe harbor rules for qualified cash or deferred arrangements cannot be considered in calculating such test. However, employer matching and nonelective contributions in excess of the amount required to satisfy the safe harbor rules for qualified cash or deferred arrangements can be taken into account in calculating such test.

Distribution of excess contributions and excess aggressive contributions

The House bill provides that the total amount of excess contributions (and excess aggregate contributions) is determined as under present law, but the distribution of excess contributions (and excess aggregate contributions) are required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, excess contributions (and excess aggregate contributions) are deemed attributable first to those highly compensated employees who have the greatest dollar amount of elective deferrals.

Effective date

The provisions relating to use of prior-year data and the distribution of excess contributions and excess aggregate contributions are effective for years beginning after December 31, 1996. The provisions providing for a safe harbor for qualified cash or deferred arrangements and the alternative method of satisfying the special nondiscrimination test for matching contributions are effective for years beginning after December 31, 1988.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. DEFINITION OF COMPENSATION FOR PURPOSES OF THE LIMITS ON CONTRIBUTIONS AND BENEFITS

(Sec. 1434 of the House bill and the Senate amendment.)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. For purposes of these limits, present law provides that the definition of compensation generally does not include elective employee contributions to certain employee benefit plans.

House bill

The House bill provides that elective deferrals to section 401(k) plans and similar arrangements, elective contributions to nonqualified deferred compensation plans of tax-exempt employers and State and local governments (sec. 457 plans), and salary reduction contributions to a cafeteria plan are considered compensation for purposes of the limits on contributions and benefits.

Effective date.—The provision is effective for years beginning after December 31, 1997.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. MISCELLANEOUS PENSION SIMPLIFICATION

1. PLAN COVERING SELF-EMPLOYED INDIVIDUALS

(Sec. 1441 of the House bill and the Senate amendment.)

PRESENT LAW

Under present law, certain special aggregation rules apply to plans maintained by owner employees of unincorporated businesses that do not apply to other qualified plans (sec. 401(d)(1) and (2)).

House bill

The House bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS

(Sec. 1442 of the House bill and the Senate amendment.)

Present law

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under one of two alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 10 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of a multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100-percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

House bill

The House bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

Effective date.—The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1997, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1999, with respect to participants with an hour of service after the effective date.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS

(Sec. 1443 of the House bill and the Senate amendment.)

Present law

A qualified cash or deferred arrangement can permit withdrawals of employee elective deferrals only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, or (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½ or the occurrence of a hardship of the participant. In the case of a money purchase pension plan, including a rural cooperative plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

House bill

The House bill provides that a rural cooperative plan that includes a cash or deferred arrangement may permit distributions to plan participants after the attainment of age 59½ or on account of hardship. In addition, the definition of a rural cooperative is expanded to include certain public utility districts.

Effective date.—The provision generally is effective for distributions after the date of enactment. The modifications to the definition of a rural cooperative apply to plan years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415

(Sec. 1444 of the House bill and the Senate amendment.)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). Certain special rules apply to State and local governmental plans under which such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers.

In the case of defined benefit pension plans, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.

House bill

The House bill makes the following modifications to the limits on contributions and benefits as applied to governmental plans: (1) the 100 percent of compensation limitation on defined benefit pension plan benefits would not apply; and (2) the early retirement reduction and the 10-year phase-in of the defined benefit pension plan dollar limit would not apply to certain disability and survivor benefits.

The House bill also permits State and local government employers to maintain excess benefit plans without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457).

Effective date—The provision is effective for years beginning after December 31, 1994. No inference is intended with respect to whether a governmental plan complies with the requirements of section 415 with respect to years beginning before January 1, 1995. With respect to such years, the Secretary is directed to enforce the requirements of section 415 consistent with the provision.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. UNIFORM RETIREMENT AGE

(Sec. 1445 of the House bill and the Senate amendment.)

Present law

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purpose of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (sec. 415), Social Security retirement age is generally used as retirement age. The Social Security retirement age as used for such purposed is presently age 65, but is scheduled to gradually increase.

House bill

The House bill provides that for purposes of the general nondiscrimination rules (sec. 401(a)(4)) the Social Security retirement age (as defined in sec. 415) is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's Social Security retirement age (as defined in sec. 415).

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

6. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES

(Sec. 1446 of the House bill and the Senate amendment.)

Present law

Under present law, an employer may elect to continue deductible contributions to a defined contribution plan on behalf of an employee who is permanently and totally disabled. For purposes of the limit on annual additions (sec. 415(c)), the compensation of a disabled employee is deemed to be equal to the annualized compensation of the employee prior to the employee's becoming disabled. Contributions are not permitted on behalf of disabled employees who were officer, owners, or highly compensated before they become disabled.

House bill

The House bill provides that the special rule for contributions on behalf of disabled employees is applicable without an employer election and to highly compensated employees if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS

(Sec. 1447 of the House bill and the Senate amendment.)

Present law

Under an unfunded deferred compensation plan of a State or local government or a tax-exempt organization (a "sec. 457 plan"), an employee who elects to defer the receipt of current compensation is taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7,500 or (2) 33⅓ percent of compensation (net of the deferral).

Amounts deferred under a section 457 plan may not be made available to an employee before the earliest of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from the service with the employer, or (3) when the participant is faced with an unforeseeable emergency.

Benefits under a section 357 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception is available only if the total amount payable to the participant under the plan does not exceed $3,500 and no additional amounts may be deferred under the plan with respect to the participant.

House bill

The House bill makes three changes to the rules governing section 457 plans.

The House bill: (1) permits in-service distributions of accounts that do not exceed $3,500 under certain circumstances; (2) increases the number of elections that can be made with respect to the time distributions must begin under the plan; and (3) provides for indexing (in $500 increments) of the dollar limit on deferrals.

Effective date.—The provision is effective for taxable years beginning after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS

(Sec. 1448 of the House bill and the Senate amendment.)

Present law

Until deferrals under an unfunded deferred compensation plan of a State or local government or a tax-exempt organization (a "sec. 457 plan") are made available to a plan participant, the amounts deferred, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights must remain solely the property and rights of the employer, subject only to the claims of the employer's general creditors.

House bill

Under the House bill, all amounts deferred under a section 457 plan maintained by a State and local governmental employer have to be held in trust (or custodial account or annuity contract) for the exclusive benefit of employees. The trust (or custodial account or annuity contract) is provided tax-exempt status. Amounts are not considered made available merely because they are held in a trust, custodial account, or annuity contract.

Effective date.—The provision generally is effective with respect to amounts held on or after the date of enactment. In the case of amounts deferred before the date of enactment (and income thereon), the trust requirement does not have to be satisfied until January 1, 1999.

Senate amendment

The Senate amendment is the same as the House bill.

Effective date.—The Senate amendment is the same as the House bill, except that in the case of plans in existence on the date of enactment, the trust requirement does not have to be satisfied until January 1, 1999. Thus, deferrals prior to and after the date of enactment (and earnings thereon) do not have to be held in trust (or custodial account or annuity contract) until January 1, 1999.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conference agreement clarifies that amounts held in trust (or custodial account or annuity contract), may be loaned to plan participants (or beneficiaries) pursuant to rules applicable to loans from qualified plans (sec.

72(p)).[35] A section 457 plan is not required to permit loans. The conferees intend that the income inclusion rules in the Code (secs. 83 and 402(b), do not apply to amounts deferred under the section 457 plan (and income thereon) merely because such amounts are contributed to the trust (or custodial account or annuity contract).

Effective date.—The conference agreement follows the House bill and the Senate amendment. Under the conference agreement, in the case of plans in existence on the date of enactment, the trust requirement does not have to be satisfied until January 1, 1999. Thus, deferrals prior to and after the date of enactment (and earnings thereon) do not have to be held in trust (or custodial account or annuity contract) until January 1, 1999.

9. CORRECTION OF GATT INTEREST AND MORTALITY RATE PROVISIONS IN THE RETIREMENT PROTECTION ACT

(Sec. 1449 of the House bill and the Senate amendment.)

Present law

The Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade ("GATT"), modified the acturial assumptions that must be used in adjusting benefits and limitations. In general, in adjusting a benefit that is payable in a form other than a straight life annuity and in adjusting the dollar limitation if benefits begin before age 62, the interest rate to be used cannot be less than the greater of 5 percent or the rate specified in the plan. Under GATT, if the benefit is payable in a form subject to the requirements of section 417(e)(3), then the interest rate on 30-year Treasury securities is substituted for 5 percent. Also under GATT, for purposes of adjusting any limit or benefit, the mortality table prescribed by the Secretary must be used.

This provision of GATT is generally effective as of the first day of the first limitation year beginning in 1995.

GATT made similar changes to the interest rate and mortality assumptions used to calculate the value of lump-sum distributions for purposes of the rule permitting involuntary dispositions of certain accrued benefits. In the case of a plan adopted and in effect before December 8, 1995, those provisions do not apply before the earlier of (1) the date a plan amendment applying the new assumption is adopted or made effective (whichever is later), or (2) the first day of the first plan year beginning after December 31, 1999.

House bill

The House bill conforms the effective date of the new interest rate and mortality assumptions that must be used under section 415 to calculate the limits on benefits and contributions to the effective date of the provision relating to the calculation of lump-sum distributions. This rule applies only in the case of plans that were adopted and in effect before the date of enactment of GATT (December 8, 1994). To the extent plans have already been amended to reflect the new assumptions, plan sponsors are permitted within 1 year of the date of enactment to amend the plan to reverse retroactively such amendment.

The House bill also repeals the GATT provision which requires that if the benefit is payable before age 62 in a form subject to the requirements of section 417(e)(3) (e.g., lump sum), then the interest rate to be used to reduce the dollar limit on benefits under section 415 cannot be less than the greater of the rate on 30-year Treasury securities or the rate specified in the plan. Consequently, regardless of the form of benefit, the interest rate to be used cannot be less than the greater of 5 percent or the rate specified in the plan.

Effective date.—The provision is effective as if included in GATT.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

10. MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED UNDER SECTION 403(B)

(Sec. 1450(a) of the House bill and the Senate amendment.)

Present law

Under Treasury regulations, a participant in a tax-sheltered annuity plan (sec. 403(b)) is not permitted to enter into more than one salary reduction agreement in any taxable year.

These restrictions do not apply to other elective deferral arrangements such as a qualified cash or deferred arrangement (sec. 401(k)).

House bill

Under the House bill, for participants in a tax-sheltered annuity plan, the frequency that a salary reduction agreement may be entered into the compensation to which such agreement applies, and the ability to revoke such agreement shall be determined under the rules applicable to qualified cash or deferred arrangements.

Effective date.—The provision is effective for taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

11. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER SECTION 403(B)

(Sec. 1450(b) of the House bill and the Senate amendment.)

Present law

Under present law, certain tax-exempt employers and certain State and local government educational organizations are permitted to maintain tax-sheltered annuity plans (sec. 403(b)). Indian tribal governments are treated as States for this purpose, so certain educational organizations associated with a tribal government are eligible to maintain tax-sheltered annuity plans.

House bill

The House bill provides that any section 403(b) annuity contract purchased in a plan year beginning before January 1, 1995, by an Indian tribal government will be treated as purchased by an entity permitted to maintain a tax-sheltered annuity plan. The House bill also provides that such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment provides that any section 403(b) annuity contract purchased in a plan year beginning before January 1, 1997, by an Indian tribal government will be treated as purchased by an entity permitted to maintain a tax-sheltered annuity plan. The Senate amendment also provides that such contracts may be rolled over into a section 401(k) plan maintained by the Indian tribal government.

In addition, beginning January 1, 1997, Indian tribal governments are permitted to maintain tax-sheltered annuity plans.

Effective date.—The provision generally is effective on the date of enactment, except that the provision permitting Indian tribal governments to maintain tax-sheltered annuity plans is effective for taxable years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the House bill.

12. APPLICATION OF ELECTIVE DEFERRAL LIMIT TO SECTION 403(B) CONTRACTS

(Sec. 1450(c) of the House bill and the Senate amendment.)

Present law

A tax-sheltered annuity plan must provide that elective deferrals made under the plan on behalf of an employee may not exceed the annual limit on elective deferrals ($9,500 for 1996). Plans that do not comply with this requirement may lose their tax-favored status.

House bill

Under the House bill, each tax-sheltered annuity contract, not the tax-sheltered annuity plan, must provide that elective deferrals made under the contract may not exceed the annual limit on elective deferrals. It is intended that the contract terms be given effect in order for this requirement to be satisfied.

Effective date.—The provision is effective for years beginning after December 31, 1995, except that an annuity contract is not required to meet any change in any requirement by reason of the provision before the 90th day after the date of enactment. No inference is intended as to whether the exclusion of elective deferrals from gross income by employees who have not exceeded the annual limit on elective deferrals is affected to the extent other employees exceed the annual limit prior to the effective date of this provision.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. WAIVER OF MINIMUM WAITING PERIOD FOR QUALIFIED PLAN DISTRIBUTIONS

(Sec. 1451 of the House bill.)

Present law

Under present law, in the case of a qualified joint and survivor annuity ("QJSA"), a written explanation of the form of benefit must generally be provided to participants no less than 30 days and no more than 90 days before the annuity starting date. Temporary Treasury regulations provide that a plan may permit a participant to elect (with any applicable spousal consent) a distribution with an annuity starting date before 30 days have elapsed since the explanation was provided, as long as the distribution commences more than seven days after the explanation was provided.

[35] Under section 72(p), a loan from a plan is treated as a distribution unless the loan generally (1) does not exceed certain limits (generally, the lesser of $50,000 or one-half of the participant's vested plan benefit; (2) must be repaid within 5 years; and (3) must be amortized on a substantially level basis with payments at least quarterly.

House bill

The House bill provides that the minimum period between the date the explanation of the qualified joint and survivor annuity is provided and the annuity starting date does not apply if it is waived by the participant and, if applicable, the participant's spouse.

Effective date.—The provision is effective with respect to plan years beginning after December 31, 1996.

Senate amendment

No provision.

Conference agreement

The conference agreement codifies the provision in the temporary Treasury regulations which provides that a plan may permit a participant to elect (with any applicable spousal consent) a distribution with an annuity starting date before 30 days have elapsed since the explanation was provided, as long as the distribution commences more than seven days after the explanation was provided. The conference agreement also provides that a plan is permitted to provide the explanation after the annuity starting date if the distribution commences at least 30 days after such explanation was provided, subject to the same waiver of the 30-day minimum waiting period as described above. This is intended to allow retroactive payments of benefits which are attributable to the period before the explanation was provided.

14. EXPANSION OF PBGC MISSING PARTICIPANT PROGRAM

(Sec. 1451 of the Senate amendment.)

Present law

The Retirement Protection Act ("RPA"), enacted as part of the legislation implementing the General Agreement on Tariffs and Trade ("GATT") in 1994, provided special rules for the payment of benefits with respect to missing participants under a terminating single-employer defined benefit plan covered by the Pension Benefit Guaranty Corporation ("PBFC"). These rules generally required the plan administrator to (1) transfer the missing participant's designated benefit to the PBGC or purchase an annuity from an insurer to satisfy the benefit liability, and (2) provide the PBGC with such information and certifications with respect to the benefits or annuity as the PBGC may specify. The missing participant program does not apply to multiemployer defined benefit plans, defined contribution plans, and defined benefit plans not covered by the PBGC (generally governmental plans, church plans, and plans sponsored by professional service employers with less than 25 employees).

House bill

No provision.

Senate amendment

The missing participant program is generally expanded to be available to multiemployer defined benefit plans, defined contribution plans, and defend benefit plans not covered by the PBGC (other than governmental and church plans). Under the Senate amendment, the present law missing participant program applicable to single-employer defined benefits plans applies to a terminating muiltiemployer defined benefit plan under rules prescribed by the PBGC.

In the case of a terminating defined contribution plan or a terminating defined benefit plan not covered by the PBGC, the missing participant program does not apply unless the plan elects to transfer a missing participant's benefits to the PBGC. To the extent provided in regulations issued by the PBGC, the administrator of the plan making such an election is required to provide the PBGC with information with respect to the benefits of a missing participant. Upon location of the missing participant, the missing participant's benefits would be paid by the PBGC in a lump sum or in such other form as specified in regulations.

Effective date.—The provisions is effective with respect to distribution made on or after the date final regulations implementing the provision are issued by the PBGC.

Conference agreement

The conference agreement does not include the Senate amendment provision.

15. REPEAL OF COMBINED PLAN LIMIT

(Sec. 1452 of the House bill and the Senate amendment.)

Present law

Combined plan limit

Present law provides limits on contributions and benefits under qualified retirement plans based on the type of plan (i.e., based on whether the plan is a defined contribution plan or a defined benefit pension plan). In the case of a defined contribution plan, annual contributions are generally limited to the lesser of $30,000 (for 1996) and 25 percent of compensation. In the case of a defined benefit pension plan, the annual benefit is generally limited to the lesser of $120,000 (for 1996) and 100 percent of the participant's average compensation for the highest 3 years. An overall limit applies if an individual is a participant in both a defined benefit pension plan and a defined contribution plan (called the combined plan limit).

Excess distribution tax

Present law imposes a 15-percent excise tax on excess distributions from qualified retirement plans, tax-sheltered annuities, and IRAs. Excess distributions are generally the aggregate amount of retirement distributions from such plans during any calendar year in excess of $150,000 (or $750,000 in the case of a lump-sum distribution). An additional 15-percent estate tax is also imposed on an individual's excess retirement accumulation.

House bill

Combined plan limit

The House bill repeals the combined plan limit.

Effective date.—The provision repealing the combined plan limit is effective with respect to limitation years beginning after December 31, 1998.

Excess distribution tax

Until the repeal of the combined plan limit is effective, the House bill suspends the excise tax on excess distributions. The additional estate tax on excess accumulations continues to apply.

Effective date.—The provision relating to the excise tax on excess distributions is effective with respect to distributions received in 1996, 1997, and 1998.

Senate amendment

Combined plan limit

The Senate amendment is the same as the House bill.

Effective date.—The provision repealing the combined plan limit is effective with respect to limitation years beginning after December 31, 1999.

Excess distribution tax

The Senate amendment is the same as the House bill.

Effective date.—The provision relating to the excise tax on excess distribution is effective with respect to distributions received in 1997, 1998, and 1999.

Conference agreement

Combined plan limit

The conference agreement follows the Senate amendment.

Excess distribution tax

The conference agreement follows the Senate amendment.

16. TAX ON PROHIBITED TRANSACTIONS

(Sec. 1453 of the House bill and the Senate amendment.)

Present law

Present law prohibits certain transactions (prohibited transactions) between a qualified plan and a disqualified person in order to prevent with a close relationship to the qualified plan from using that relationship to the detriment of plan participants and beneficiaries. A two-tier excise tax is imposed on prohibited transactions. The initial level tax is equal to 5 percent of the amount involved with respect to the transaction. If the transaction is not corrected within a certain period, a tax equal to 100 percent of the amount involved may be imposed.

House bill

The House bill increases the initial-level prohibited transaction tax from 5 percent to 10 percent.

Effective date.—The provision is effective with respect to prohibited transactions occuring after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

17. TREATMENT OF LEASED EMPLOYEES

(Sec. 1454 of the House bill and the Senate amendment.)

Present law

An individual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions, if the services are performed pursuant to an agreement between the recipient and any other person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the recipient's employee only if the individual has performed services for the recipient on a substantially full-time basis for a year, and the services are of a type historically performed by employees in the recipient's business field.

An individual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. Each leased employee is to be treated as an employee of the recipient, regardless of the existence of a safe harbor plan, if more than 20 percent of an employer's nonhighly compensated workforce are leased.

House bill

Under the House bill, the present-law "historically performed" test is replaced with a new test under which an individual is not considered a leased employee unless the individual's services are performed under primary direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether

the individual is a common-law employee of the recipient. Thus, an individual who is not a common-law employee of the service recipient could nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under primary direction or control of the recipient for purposes of the employee leasing rules is not determinative of whether the person is or is not a common-law employee of the recipient.

Whether services are performed by an individual under primary direction or control by the service recipient depends on the facts and circumstances. In general, primary direction and control means that the service recipient exercises the majority of direction and control over the individual. Factors that are relevant in determining whether primary direction or control exists include whether the individual is required to comply with instructions of the service recipient about when, where, and how he or she is to perform the services, whether the services must be performed by a particular person, whether the individual is subject to the supervision of the service recipient, and whether the individual must perform services in the order or sequence set by the service recipient. Factors that generally are not relevant in determining whether such direction or control exists include whether the service recipient has the right to hire or fire the individual and whether the individual works for others.

For example, an individual who works under the direct supervision of the service recipient would be considered to be subject to primary direction or control of the service recipient even if another company hired and trained the individual, had the ultimate (but unexercised) legal right to control the individual, paid his wages, withheld his employment and income taxes, and had the exclusive right to fire him. Thus, for example, temporary secretaries, receptionists, word processing personnel and similar office personnel who are subject to the day-to-day control of the employer in essentially the same manner as a common law employee are treated as leased employees if the period of service threshold is reached.

On the other hand, an individual who is a common-law employee of Company A who performs services for Company B on the business premises of Company B under the supervision of Company A would generally not be considered to be under primary direction or control of Company B. The supervision by Company A must be more than nominal, however, and not merely a mechanism to avoid the literal language of the direction or control test.

An example of the situation in the preceding paragraph might be a work crew that comes into a factory to install, repair, maintain, or modify equipment or machinery at the factory. The work crew includes a supervisor who is an employee of the equipment (or equipment repair) company and who has the authority to direct and control the crew, and who actually does exercise such direction and control. In this situation, the supervisor and his or her crew are required to comply with the safety and environmental precautions of the manufacturer, and the supervisor is in frequent communication with the employees of the manufacturer. As another example, certain professionals (e.g., attorneys, accountants, actuaries, doctors, computer programmers, systems analysts, and engineers) who regularly make use of their own judgment and discretion on matters of importance in the performance of their services and are guided by professional, legal, or industry standards, are not leased employees even though the common law employer does not closely supervise the professional on a continuing basis, and the service recipient requires the services to be performed on site and according to certain stages, techniques, and timetables. In addition to the example above, outside professionals who maintain their own businesses (e.g., attorneys, accountants, actuaries, doctors, computer programmers, systems analysts, and engineers) generally would not be considered to be subject to such primary direction or control.

Under the direction or control test, clerical and similar support staff (e.g., secretaries and nurses in a doctor's office), generally would be considered to be subject to primary direction or control of the service recipient and would be leased employees provided the other requirements of section 414(n) are met.

In many cases, the "historically performed" test is overly broad, and results in the unintended treatment of individuals as leased employees. One of the principal purposes for changing the leased employee rules is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. However, it is not intended that the direction or control test enable employers to engage in abusive practices. Thus, it is intended that the Secretary interpret and apply the leased employee rules in a manner so as to prevent abuses. This ability to prevent abuses under the leasing rules is in addition to the present-law authority of the Secretary under section 414(o). For example, one potentially abusive situation exists where the benefit arrangements of the service recipient overwhelmingly favor its highly compensated employees, the employer has no or very few nonhighly compensated common-law employees, yet the employer makes substantial use of the services of nonhighly compensated individuals who are not its common-law employees.

Effective date.—The provision is effective for years beginning after December 31, 1996, except that the House bill would not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

18. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS

(Sec. 1455 of the House bill and the Senate amendment.)

Present law

Any person who fails to file an information report with the IRS on or before the prescribed filing date is subject to penalties for each failure. A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments.

House bill

The House bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients.

Effective date.—The provision is effective with respect to returns and statements the due date for which is after December 31, 1996.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

19. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT

(Sec. 1456 of the House bill and the Senate amendment.)

Present law

Under present law, certain benefits provided to ministers after they retire are subject to self-employment tax.

House bill

The House bill provides that retirement benefits received from a church plan after a minister retires, and the rental value or allowance of a parsonage (including utilities) furnished to a minister after retirement, are not subject to self-employment taxes.

Effective date.—The provision is effective for years beginning before, on, or after December 31, 1994.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

20. TREASURY TO PROVIDE MODEL FORMS FOR SPOUSAL CONSENT AND QUALIFIED DOMESTIC RELATIONS ORDERS

(Sec. 1457 of the Senate amendment.)

Present law

Present law contains a number of rules designed to provide income to the surviving spouse of a deceased employee. Under these spousal protection rules, defined benefit pension plans and money purchase pension plans are required to provide that vested retirement benefits with a present value in excess of $3,500 are payable in the form of a qualified joint and survivor annuity ("QJSA") or, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity ("QPSA"). Benefits from a plan subject to the survivor benefit rules may be paid in a form other than a QJSA or QPSA if the participant waives the QJSA or QPSA (or both) and the applicable notice, election, and spousal consent requirements are satisfied.

Also, under present law, benefits under a qualified retirement plan are subject to prohibitions against assignment or alienation of benefits. An exception to this rule generally applies in the case of plan benefits paid to a former spouse pursuant to a qualified domestic relations order ("QDRO").

House bill

No provision.

Senate amendment

Model spousal consent form

The Secretary is required to develop a model spousal consent from, no later than January 1, 1997, waving the QJSA and QPSA forms of benefit. Such form must be written in a manner calculated to be understood by the average person, and must disclose in plain form whether the waiver is irrevocable and that it may be revoked by a QDRO.

Model QDRO

The Secretary is required to develop a model QDRO, no later than January 1, 1997, which satisfies the requirements of a QDRO under present law, and the provisions of

which focus attention on the need to consider the treatment of any lump sum payment, QJSA, or QPSA.

Effective date

The provisions are effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, except that instead of developing a model spousal consent form and a model QDRO, the Secretary must develop sample language for inclusion in a spousal consent form and QDRO.

21. TREATMENT OF LENGTH OF SERVICE AWARDS FOR CERTAIN VOLUNTEERS UNDER SECTION 457

(Sec. 1458 of the Senate amendment.)

Present law

Compensation deferred under an eligible deferred compensation plan of a tax-exempt or governmental employer that meets certain requirements (a "sec. 457 plan") is not includible in gross income until paid or made available. One of the requirements for a section 457 plan is that the maximum annual amount that can be deferred is the lesser of $7,500 or 33⅓ percent of the individual's taxable compensation.

Amounts deferred under plans of tax-exempt and governmental employers that do not meet the requirements of section 457 (other than amounts deferred under tax-qualified retirement plans, section 403(b) annuities and certain other plans) are includible in gross income in the first year in which there is no substantial risk of forfeiture of such amounts.

House bill

No provision.

Senate amendment

Under the Senate amendment, the requirements of section 457 do not apply to any plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of fire fighting and prevention, emergency medical, and ambulance services performed by such volunteers. An individual is considered a "bona fide volunteer" if the only compensation received by such individual for performing such services is reimbursement (or a reasonable allowance) for expenses incurred in the performance of such services, or reasonable benefits (including length of service awards) and nominal fees for such services customarily paid by tax-exempt or governmental employers in connection with the performance of such services by volunteers. Under the Senate amendment, a length of service award plan will not qualify for this special treatment under section 457 if the aggregate amount of length of service awards accruing with respect to any year of service for any bona fide volunteer exceeds $3,000.

In addition, any amounts exempt from the requirements of section 457 under the Senate amendment are not considered wages for purposes of the Federal Insurance Contribution Act ("FICA") taxes.

Effective date.—The provision applies to accruals of length of service awards after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

22. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION

(Sec. 1459 of the Senate amendment.)

Present law

Under present law, a special nondiscrimination test applies to qualified cash or deferred arrangements (sec. 401(k) plans). The special nondiscrimination test is satisfied if the actual deferral percentage ("ADP") for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test (the actual contribution percentage ("ACP") test) similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.

In general, a plan need not permit employees to enter a plan prior to the attainment of age 21 and the completion of 1 year service. For purposes of the nondiscrimination rules (including the ADP and ACP tests), an employer that chooses less restrictive entry conditions (e.g., age 18 rather than age 21) may choose "separate testing" under which all employees who have not met the statutory age and service entry maximums are disregarded, provided that the plan satisfies the nondiscrimination rules taking into account only those employees whose age and service are less than the statutory age and service maximums. Thus, for example, such a plan would apply one ADP test for employees who are over age 21 with 1 year of service, under which the plan would disregard elective contributions for other employees, and a second ADP test looking solely at elective contribution for employees under age 21 or who have not completed 1 year of service.

House bill

No provision.

Senate amendment

Under the Senate amendment, for purposes of the ADP test, a section 401(k) plan may elect to disregard employees (other than highly compensated employees) eligible to participate before they have completed 1 year of service and reached age 21, provided the plan separately satisfies the minimum coverage rules (sec. 410(b)) taking into account only those employees who have not completed 1 year of service or are under age 21. Instead of applying two separate ADP tests, such a plan could apply a single ADP test that compares the ADP for all highly compensated employees who are eligible to make elective contributions with the ADP for those nonhighly compensated employees who are eligible to make elective contributions and who have completed one year of service and reached age 21. A similar rule applies for purposes of the ACP test.

Effective date.—The provision is effective for plan years beginning after December 31, 1998.

Conference agreement

The conference agreement follows the Senate amendment.

23. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS

(Sec. 1460 of the Senate amendment.)

Present law

Present law contains a number of rules designed to provide income to the surviving spouse of a deceased employee. These rules are in both the Internal Revenue Code and title I of the Employee Retirement Income Security Act of 1974, as amended.

Under the spousal protection rules, defined benefit pension plans and money purchase pension plans are required to provide that vested retirement benefits with a present value in excess of $3,500 are payable in the form of a qualified joint and survivor annuity ("QJSA") or, in the case of a participant who dies before the annuity starting date, a qualified preretirement survivor annuity ("QPSA"). A QJSA is generally defined as an annuity for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and not greater than 100 percent of) the amount of the participant's annuity, and which is the actuarial equivalent of a single life annuity for the life of the participant. A QPSA is generally defined as an annuity for the life of the surviving spouse of the participant, the payments of which are not less than the amount which would be payable as a survivor annuity under the plan's QJSA.

The survivor benefit rules do not apply to defined contribution plans other than money purchase pension plans if (1) the plan provides that, upon the death of the participant, the participant's accrued benefit is payable to the participant's surviving spouse, (2) the participant does not elect payment of benefits in the form of an annuity, and (3) the plan is not a transferee plan of a plan subject to the joint and survivor rules.

Benefits from a plan subject to the survivor benefit rules may be paid in a form other than a QJSA or QPSA if the participant waives the QJSA or QPSA and the applicable notice, election, and spousal consent requirements are satisfied. Similarly, under a defined contribution plan not subject to the survivor benefit rules, the spouse can consent to have benefits paid to another beneficiary.

House bill

No provision.

Senate amendment

Under the Senate amendment, if a plan provides as its QJSA a benefit which provides a survivor annuity for the life of the spouse which is not equal to 66⅔ percent of the amount of the participant's annuity, the plan is required to provide the participant with an election to receive an annuity for the life of the participant with a survivor annuity for the life of the spouse which is 66⅔ percent of the amount of the participant's annuity.[36] If the participant makes such an election the benefit received is treated as a QJSA for purposes of the qualified plan requirements; however the fact that such an election is offered does not affect how the QPSA is calculated. In other words, the QPSA continues to be based on the regular QJSA provided under the plan.

Effective date.—The provision is effective for plan years beginning after December 31, 1996. However, plans in existence on the date of enactment do not have to comply with the requirements of the amendment before the plan year immediately following the first plan year in which any amendment to the plan that is otherwise made becomes effective.

Conference agreement

The conference agreement does not include the Senate amendment provision.

24. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS

(Sec. 1461 of the Senate amendment.)

Present law

The Employee Retirement Income Security Act of 1974 ("ERISA") imposes certain

[36] As with the QJSA, this benefit would be the actuarial equivalent of a single life annuity for the life of the participant.

fiduciary requirements (including restrictions on certain prohibited transactions) with respect to the assets of an employee benefit plan ("plan assets"). The International Revenue Code of 1986 (the "Code") imposes an excise tax in the case of certain prohibited transactions involving plan assets.

In 1975, the Department of Labor issued guidance providing that if an insurance company issues a contract or policy of insurance to an employee benefit plan and places the consideration for such contract or policy in its general asset account, the assets in such account are not considered to be plan assets.[37] In 1993, the Supreme Court[38] ruled that certain assets held in an insurance company's general account should be considered plan assets.

House bill

No provision.

Senate amendment

Under the Senate amendment, not later than December 31, 1996, the Secretary of Labor is required to issue proposed regulations providing guidance for the purpose of determining, in cases where an insurer issues 1 or more policies (supported by the assets of the insurer's general account) to or for the benefit of an employee benefit plan, which assets of the insurer (other than plan assets held in its separate account) constitute plan assets for purposes of the fiduciary rules of ERISA and the prohibited transaction provisions of the Code. Such proposed regulations must be subject to public notice and comment until March 31, 1997, and the Secretary of Labor is required to issue final regulations by June 30, 1997. Any regulations issued by the Secretary of Labor in accordance with the Senate amendment generally could not take effect before the date on which such regulations became final.

In issuing regulations, the Secretary of Labor would have to ensure that such regulations are administratively feasible and are designed to protect the interests and rights of the plan and of the plans participants and beneficiaries. In issuing regulations, the Secretary of Labor may exclude any assets of the insurer with respect to its operations, products, or services from treatment as plan assets. Further, the regulations would have to provide that plan assets do not include assets which are not treated as plan assets under present law because they are (1) assets of an investment company registered under the Investment Company Act of 1940, or (2) assets of an insurer with respect to a guaranteed benefit policy issued by such insurer.

Under the Senate amendment, no person is liable under ERISA or the Code for conduct which occurred prior to the date which is 18 months following the effective date of the final regulations on the basis of a claim that the assets of the insurer (other than plan assets held in a separate account) constituted plan assets, except as otherwise provided by the Secretary of Labor in order to prevent avoidance of the guidance in the regulations or as provided in an action brought by the Secretary of Labor under ERISA's enforcement provisions for a breach of fiduciary responsibility which would also constitute a violation of Federal criminal law or constitute a felony under applicable State law.[39]

The Senate amendment does not preclude the application of any Federal criminal law.

Effective date.—The provision generally would be effective on January 1, 1975. However, the provision would not apply to any civil action commenced before January 7, 1995.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications.

Proposed regulations need not be issued by the Secretary of Labor until June 30, 1997. Such proposed regulations will be subject to public notice and comment until September 30, 1997. Final regulations need not be issued until December 31, 1997.

Such regulations will only apply with respect to a policy issued by an insurer on or before December 31, 1998. In the case of such a policy, the regulations will take effect at the end of the 18 month period following the date such regulations become final. New policies issued after December 31, 1998, will be subject to the fiduciary obligations under ERISA.

In issuing regulations, the Secretary of Labor must ensure that such regulations protect the interests and rights of the plan and of its participants and beneficiaries as opposed to ensuring that such regulations are designed to protect the interests and rights of the plan and of its participants and beneficiaries.

Under the conference agreement, in connection with any policy (other than a guaranteed benefit policy) issued by an insurer to or for the benefit of an employee benefit plan, the regulations issued by the Secretary of Labor must require (1) that a plan fiduciary totally independent of the insurer authorize the purchase of such policy (unless it is the purchase of a life insurance, health insurance, or annuity contract exempt from ERISA's prohibited transaction rules); (2) that after the date final regulations are issued the insurer provide periodic reports to the policyholder disclosing the method by which any income or expenses of the insurer's general account are allocated to the policy and disclosing the actual return to the plan under the policy and such other financial information the Secretary may deem appropriate; and (3) that the insurer disclose to the plan fiduciary the extent to which alternative arrangements supported by assets of separate accounts of the insurer are available, whether there is a right under the policy to transfer funds to a separate account and the terms governing any such right, and the extent to which support by assets of the insurer's general account and support by assets of separate accounts of the insurer might pose differing risks to the plan; and (4) that the insurer must manage general account assets with the level of care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, taking into account all obligations supported by such enterprise.

Under the Conference agreement, compliance by the insurer with all the requirements of the regulations issued by the Secretary of Labor will be deemed compliance by such insurer with ERISA's fiduciary duties, prohibited transactions, and limitations on holding employer securities and employer real property provisions (ERISA secs. 404, 406, and 407).

25. CHURCH PENSION PLAN SIMPLIFICATION

(Secs. 1462–1464 of the Senate amendment.)

Present law

In general, a church plan is a plan established and maintained for employees (or their beneficiaries) by a church or a church convention or association of churches that is exempt from tax (sec. 414(e)). Church plans include plans maintained by an organization, whether a corporation or otherwise, that has as its principal purpose or function the administration or funding of a plan or program for providing retirement or welfare benefits for the employees of the church or convention or association of churches. Employees of a church include any minister, regardless of the source of his or her compensation, and an employee of an organization which is exempt from tax and which is controlled by or associated with a church or a convention or association of churches.[40]

Plans maintained by churches and certain church-controlled organizations are exempt from certain of the requirements applicable to pension plans under the Code pursuant to the Employee Retirement Income Security Act of 1974 (as amended) ("ERISA"). For example, such plans are not subject to ERISA's vesting, coverage, and funding requirements. In some cases, such plans are subject to provisions in effect before the enactment of ERISA. Under the rules in effect before ERISA, a plan cannot discriminate in favor of officers, shareholder, persons whose principal duties consist in supervising the work of other employees, or highly compensated employees. Church plans may elect to waive the exemption from the qualification rules (sec. 410(d)). Electing plans become subject to all the tax Code (sec. 401(a)) qualification requirements, Title I of ERISA, the excise tax on prohibited transactions, and participation in the pension plan termination insurance program administered by the Pension Benefit Guaranty Corporation.

Certain eligible employers may maintain tax-sheltered annuity plans (sec. 403(b)). These plans provide tax-deferred retirement savings for employees of public education institutions and employees of certain tax-exempt organizations (including churches and certain organizations associated with churches). In addition to tax-sheltered annuities, alternative funding mechanisms that provide similar tax benefits include church-maintained retirement income accounts (sec. 403(b)(9)).

For purposes of determining an employee's investment in the contract under the rules relating to taxation of annuities, amounts contributed by the employer are included as investment in the contract, but only to the extent that such amounts were includible in the gross income of the employee or, if such amounts had been paid directly to the employee, would not have been includible in income. However, amounts contributed by the employer which, if they had been paid directly to the employee, would have been excludable under section 911 are not treated as investment in the contract, except to the extent attributable to services performed before January 1, 1963.

[37] Interpretive Bulletin 1975-2, 29 CFR section 2509.75-2(b) (1992). The term "general account" refers to all assets of an insurance company which are not legally segregated and allocated to separate accounts. The assets in a general account are derived from all classes of business and support the insurer's obligations on an unsegregated basis, with no particular assets being specifically committed to meet the obligations under any particular contract or policy.

[38] *John Hancock Mutual Life Insurance Company* v. *Harris Trust and Savings Bank*, 510 U.S. 86 (1993).

[39] The Senate amendment provides that the term policy includes a contract.

[40] With respect to certain provisions (e.g., the exemption for church plans from nondiscrimination requirements applicable to tax-sheltered annuities), the more limited definition of church under the employment tax rules applies (secs. 3121(w)(3)(A) and (B)).

House bill

No provision.

Senate amendment

The Senate amendment allows self-employed ministers to participate in a church plan. For purposes of the definition of a church plan, a self-employed minister is treated as his or her own employer and as if the employer were a tax-exempt organization under section 501(c)(3). The earned income of the self-employed minister is treated as his or her compensation. Self-employed ministers are able to deduct their contributions.

In addition, ministers employed by an organization other than a church are treated as if employed by a church. Thus, such ministers can also participate in a church plan.

The Senate amendment provides that if a minister is employed by an employer that is not eligible to maintain a church plan, the minister is not taken into account by that employer in applying nondiscrimination rules.

The Senate amendment permits retirement income accounts to be established for self-employed minister.

The Senate amendment provides that church plans subject to the pre-ERISA nondiscrimination rules are to apply the same definition of highly compensated employee as other pension plans, rather than the pre-ERISA rule relating to employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees or highly compensated employees.

The Senate amendment provides that the Secretary of the Treasury may develop safe harbor rules for church plans under the applicable coverage and nondiscrimination rules.

The Senate amendment provides that, in the case of foreign missionaries, amounts contributed to a plan by the employer are investment in the contract even though the amounts, if paid directly to the employee would have been excludable under section 911.

Effective date.—The provision is effective for years beginning after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment with technical modifications.

26. INCREASE IN MULTIEMPLOYER PLAN BENEFITS GUARANTEED

(Sec. 1465 of the Senate amendment.)

Present law

The Pension Benefit Guaranty Corporation ("PBGC") guarantees benefits of workers under multiemployer plans. The monthly guarantee is equal to the participant's years of service multiplied by the sum of (1) 100 percent of the first $5 of the monthly benefit accrual rate, and (2) 75 percent of the next $15 of the accrual rate.

House bill

No provision.

Senate amendment

The Senate amendment generally adjusts the amount guaranteed under multiemployer plans to account for changes in the Social Security wage index since 1980. Under the Senate amendment, the monthly benefit guaranteed by the PBGC is generally increased to the participant's years of service multiplied by the sum of (1) 100 percent of the first $11 of the monthly benefit accrual rate, and (2) 75 percent of the next $33 of the accrual rate. The maximum annual guarantee for a retiree with 30 years of service is generally increased to $12,870.

The increase in guaranteed multiemployer plan benefits only applies in the case of multiemployer plans which first receive financial assistance from the PBGC during the applicable period. The applicable period is the period beginning on the date of enactment and ending on the last day of the first fiscal year in which the surplus in the PBGC's multiemployer insurance program is less than half of the surplus for the fiscal year ending September 30, 1995, as reflected in the Statement of Financial Condition in the PBGC's 1995 Annual Report. In determining the surplus in the multiemployer insurance program in any fiscal year, the PBGC is required to use the same actuarial assumptions that it used in determining the surplus for the fiscal year ending September 30, 1995. If the PBGC surplus declines by more than 50 percent, benefits of participants in multiemployer plans that first received financial assistance from the PBGC during the applicable period would continue to be guaranteed at the increased level; however, other benefits would be guaranteed at the present-law levels. The guaranteed benefit level would not automatically increase if the surplus increases.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment provision.

27. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL

(Sec. 1466 of the Senate amendment.)

Present law

A provision in the Retirement Protection Act of 1994, enacted as part of the implementing legislation for the General Agreement on Tariffs and Trade ("GATT"), generally requires certain underfunded single-employer defined benefit plans to make quarterly contributions sufficient to maintain liquid plan assets, i.e., cash and marketable securities, at an amount approximately equal to three times the total trust disbursements for the preceding 12-month period. This liquidity requirement only applies to underfunded single-employer defined benefit plans (other than small plans)[41] that (1) are required to make quarterly installments of their estimated minimum funding contribution for the plan year, and (2) have a liquidity shortfall for any quarter during the plan year.

A plan has a liquidity shortfall if its liquid assets as of the last day of the quarter are less than the base amount for the quarter. Liquid assets are cash, marketable securities and such other assets as specified by the Secretary. The base amount for the quarter is an amount equal to the product of three times the adjusted disbursements from the plan for the 12 months ending on the last day of the last month preceding the quarterly installment due date. If the base amount exceeds the product of two times the sum of adjusted disbursements for the 36 months ending on the last day of the last month preceding the quarterly installment due date, and an enrolled actuary certifies to the satisfaction of the Secretary that the excess is the result of nonrecurring circumstances, such nonrecurring circumstances are not included in the base amount. For purposes of determining the base amount, adjusted disbursements mean the amount of all disbursements from the plan's trust, including purchases of annuities, payments of single sums, other benefit payments, and administrative expenses reduced by the product of the plan's funded current liability percentage for the plan year and the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary provides in regulations.

The amount of the required quarterly installment for defined benefit plans that have a liquidity shortfall for any quarter is the greater of the quarterly installment or the liquidity shortfall. The amount of the liquidity shortfall must be paid in the form of liquid assets. It may not be paid by the application of credit balances in the funding standard account. The amount of any liquidity shortfall payment when added to prior installments for the plan year cannot exceed the amount necessary to increase the funded current liability percentage of the plan to 100 percent taking into account the expected increase in current liability due to benefits accruing during the plan year.

If a liquidity shortfall payment is not made, then the plan sponsor is subject to a nondeductible excise tax equal to 10 percent of the amount of the outstanding liquidity shortfall. A liquidity shortfall payment is no longer considered outstanding on the earlier of (1) the last day of a later quarter for which the plan does not have a liquidity shortfall or (2) the date on which the liquidity shortfall for a later quarter is timely paid. If the liquidity shortfall remains outstanding after four quarters, the excise tax increases to 100 percent.

House bill

No provision.

Senate amendment

The Senate amendment gives the Secretary authority to waive all or part of the excise tax imposed for a failure to make a liquidity shortfall payment if the plan sponsor establishes to the satisfaction of the Secretary that the liquidity shortfall was due to reasonable cause and not willful neglect and reasonable steps have been taken to remedy such shortfall.

Effective date.—The provision is effective as if included in GATT.

Conference agreement

The conference agreement follows the Senate amendment.

28. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415

(Sec. 1467 of the Senate amendment.)

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan. In the case of defined benefit pension plans, the limit on the annual retirement benefit is the lesser of (1) 100 percent of compensation or (2) $120,000 (indexed for inflation). The dollar limit is reduced in the case of early retirement or if the employee has less than 10 years of plan participation.

House bill

No provision.

Senate amendment

The Senate amendment makes the following modifications to the limits on contributions and benefits as applied to multiemployer plans:

(1) the 100 percent of compensation limitation on defined benefit pension plan benefits does not apply; and

[41] A plan is a small plan if it had 100 or fewer participants on each day during the plan year (as determined in Code sec. 412(1)(6)).

(2) the early retirement reduction and the 10-year phase-in of the defined benefit pension plan dollar limit does not apply to certain disability and survivor benefits.

Effective date.—The provision applies to multiemployer plans for years beginning after December 31, 1996.

Conference agreement

The conference agreement does not include the Senate amendment provision.

29. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES

(Sec. 1468 of the Senate amendment.)

Present law

When a Federal employee or former Federal employee dies, any contribution to his or her credit in the Civil Service Retirement and Disability Fund must be paid to whomever the employee designated to receive that contribution. If no designation was made, there is a statutory order of precedence beginning with the surviving spouse. There is no provision in law that permits a domestic relations order to interfere with these arrangements. Thus, if an employee agreed in a divorce settlement to designate a former spouse to receive these funds, and later designated another individual, present law would require payment of the funds to the other individual. By contrast, under present law, an employee's annuity and survivor benefits are subject to the provisions of a domestic relations order.

House bill

No provision.

Senate amendment

The payment of contributions to the employee's credit in the Civil Service Retirement and Disability Fund is subject to the provisions of a domestic relations order, in the same way as the employee's annuity and survivor benefits. Thus, a domestic relations order on file with the Office of Personnel Management supersedes any designation of beneficiary by the employee.

Effective date.—The provision is effective with respect to deaths occurring after the 90th day after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

30. DATE FOR ADOPTION OF PLAN AMENDMENTS

(Sec. 1459 of the House bill and sec. 1469 of the Senate amendment.)

Present law

Plan amendments to reflect amendments to the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs.

House bill

The House bill generally provides that any amendments to a plan or annuity contract required by the pension simplification amendments would not be required to be made before the first plan year beginning on or after January 1, 1997. The date for amendments is extended to the first plan year beginning on or after January 1, 1999, in the case of a governmental plan.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

Under the conference agreement, any amendments to a plan or annuity contract required by the pension simplification amendments would not be required to be made before the first plan year beginning on or after January 1, 1998. The date for amendments is extended to the first plan year beginning on or after January 1, 2000, in the case of a governmental plan.

Effective date.—The provision is effective on the date of enactment.

IV. FOREIGN SIMPLIFICATION PROVISION

1. REPEAL OF EXCESS PASSIVE ASSETS PROVISION

(Sec. 1501 of the House bill.)

Present law

Under the rules of subpart F (secs. 951–964), certain 10-percent U.S. shareholders of a controlled foreign corporation (CFC) are required to include in income currently for U.S. tax purposes certain earnings of the CFC, whether or not such earnings are actually distributed currently to the shareholders. The 10-percent U.S. shareholders of a CFC are subject to current U.S. tax on their shares of certain income earned by the CFC (referred to as "subpart F income"). The 10-percent U.S. shareholders are also subject to current U.S. tax on their shares of the CFC's earnings to the extent such earnings are invested by the CFC in certain U.S. property.

In addition to these current inclusion rules, the Omnibus Budget Reconciliation Act of 1993 enacted section 956A, which applies another current inclusion rule to U.S. shareholders of a CFC. Section 956A requires the 10-percent U.S. shareholder of a CFC to include in income currently their shares of the CFC's earnings to the extent such earnings are invested by the CFC in excess passive assets. A CFC generally is treated as having excess passive assets if the average of the amounts of its passive assets exceeds 25 percent of the average of the amounts of its total assets; this calculation requires a quarterly determination of the CFC's passive assets and total assets.

House bill

The House bill repeals section 956A.

Effective date.—The provision applies to taxable years of foreign corporations beginning after December 31, 1996, and taxable years of U.S. shareholders with or within which such taxable years of foreign corporations end.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

V. OTHER PROVISIONS

1. EXEMPT ALASKA FROM DIESEL DYEING REQUIREMENT WHILE ALASKA IS EXEMPT FROM SIMILAR CLEAN AIR ACT DYEING REQUIREMENT

(Sec. 1801 of the Senate amendment.)

Present law

An excise tax totaling 24.3 cents per gallon is imposed on diesel fuel. In the case of fuel used in highway transportation, 20 cents per gallon is dedicated to the Highway Trust Fund. The remaining portion of this tax is imposed on transportation generally and is retained in the General Fund.

The diesel fuel tax is imposed on removal of the fuel from a pipeline or barge terminal facility (i.e., at the "terminal rack"). Present law provides that tax is imposed on all diesel fuel removed from terminal facilities unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations.

In general, the diesel fuel tax does not apply to non-transportation uses of the fuel. A specific exemption is provided for off-highway business uses (e.g., use as fuel powering off-highway equipment). Use as heating oil also is exempt. (Most fuel commonly referred to a heating oil is diesel fuel.) The tax also does not apply to fuel used on a farm for farming purposes or by State and local governments, to exported fuels, and to fuel used in commercial shipping. Fuel used by intercity buses and trains is partially exempt from the diesel fuel tax.

A similar dyeing regime exists for diesel fuel under the Clean Air Act. That Act prohibits the use on highways, of diesel fuel with a sulfur content exceeding prescribed levels. This "high sulfur" diesel fuel is required to be dyed by the EPA. The State of Alaska generally was exempted from the Clean Air Act, but not the excise tax, dyeing regime for three years (until October 1, 1996) (urban areas) or permanently (remote areas).

House bill

No provision

Senate amendment

The Senate amendment provides that diesel fuel sold in the State of Alaska will be exempt from the diesel dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirements. Thus, subject to a certification procedure to be developed by the Treasury Department, undyed diesel fuel which is destined for a nontaxable use may be removed from terminals without payment of tax through September 30, 1996 (urban areas, unless extended by the Environmental Protection Agency) or permanently (remote areas).

Effective date.—Effective beginning with the first calendar quarter after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment

2. APPLICATION OF COMMON PAYMASTER RULES TO CERTAIN AGENCY ACCOUNTS AT STATE UNIVERSITIES

(Sec. 1802 of the Senate amendment.)

Present law

In general, the OASDI portion of FICA taxes are payable with respect to employee remuneration not in excess of a contribution base. If an employee works for more than one employer during a year, these taxes are payable for each employer up to the contribution base. Under the common paymaster rule if an individual works for two or more related corporations, the remuneration may be treated as being from one employer and therefore taxable for one contribution base.

Section 125 of Social Security Amendments of 1983 provided a common paymaster rule for certain State universities that employ health care professionals as faculty members at a medical school and at a tax-exempt faculty practice plan. This rule does not explicitly apply to situations where compensation is made through a university agency account and not directly by a medical school faculty practice plan.

House bill

No provision.

Senate amendment

The Senate amendment establishes a common paymaster rule in cases where: (1) a State or State university provides remuneration pursuant to a single contract of employment to certain health care professionals as members of its medical school faculty; and

(2) as agency account at such institution also provides remuneration to such health care professionals. The agency account must receive funds for the remuneration from a faculty practice plan described in section 501(c)(3) of the Code. The payments may only be distributed by the agency account to faculty members who render patient care at the medical school. The faculty members receiving payments must comprise at least 30 percent of the membership of the faculty practice plan.

Effective date.—Remuneration paid after December 31, 1996. It is intended that, with respect to years before the effective date, the Secretary apply present law in a manner consistent with the proposal.

Conference agreement

The conference agreement includes the Senate amendment provision.

3. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS

a. Exempt imported recycled halons from the excise tax on ozone-depleting chemicals

(Sec. 1803(a) of the bill.)

Present law

An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals (Code sec. 4681). The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to each taxable chemical. The base tax amount is $5.80 per pound in 1996 and will increase by 45 cents per pound per year thereafter. The ozone-depleting factors for taxable halons are 3 for halon-1211, 10 for halon-1301, and 6 for halon-2402.

Taxable chemicals that are recovered and recycled within the United States are exempt from tax.

House bill

No provision.

Senate amendment

The Senate amendment extends the exemption from tax for domestically recovered and recycled ozone-depleting chemicals to imported recycled halons. The exemption for imported recycled halons applies only to such chemicals imported from countries that are signatories to the Montreal Protocol on Substances that Deplete the Ozone Layer.

Effective date.—The provision is effective for chemicals imported after December 31, 1996.

Conference agreement

The conference agreement follows the Senate amendment with a modification to the effective date.

Effective date.—The provision is effective for halon-1301 and halon-2402 imported after December 31, 1996, and for halon-1211 imported after December 31, 1997.

b. Exempt chemicals used in metered-dose inhalers from the excise tax on ozone-depleting chemicals

(Sec. 1803(b) of the bill.)

Present law

An excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals (Code sec. 4681). The amount of tax generally is determined by multiplying the base tax amount applicable for the calendar year by an ozone-depleting factor assigned to each taxable chemical. The base tax amount is $5.80 per pound in 1996 and will increase by 45 cents per pound per year thereafter.

A reduced rate of tax of $1.67 per pound applies to chemicals used as propellants in metered-dose inhalers (sec. 4682(g)(4)).

House bill

No provision.

Senate amendment

The Senate amendment exempts chemicals used as propellants in metered-dose inhalers from the excise tax on ozone-depleting chemicals.

Effective date.—The provision is effective for chemicals sold or used seven days after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. TAX-EXEMPT BONDS FOR THE SALE OF THE ALASKA POWER ADMINISTRATION FACILITY

(Sec. 1804 of the Senate amendment.)

Present law

Interest on State and local government bonds to provide financing to private parties (private activity bonds) is taxable unless an exception is provided in the Internal Revenue Code. One such exception relates to the financing of facilities for the furnishing of electricity and gas.

Most private activity bonds are subject to annual State volume limits of the greater of $50 per resident of the State or $150 million. Additionally, persons acquiring existing property financed with most private activity bonds must satisfy a rehabilitation requirement as a condition of the financing.

House bill

No provision.

Senate amendment

Provides an exception from the general rehabilitation requirement for private activity bonds used to acquire existing property for certain bonds to finance the acquisition of the Snettisham hydroelectric project for the Alaska Power Administration pursuant to legislation that has been enacted authorizing that transaction. These bonds are subject to the State of Alaska's private activity bond volume limit.

Effective date.—Bonds issued after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

5. ALLOW BANK COMMON TRUST FUNDS TO TRANSFER ASSETS TO REGULATED INVESTMENT COMPANIES WITHOUT TAXATION

(Sec. 1805 of the Senate amendment.)

Present law

Common trust funds

A common trust fund is a fund maintained by a bank exclusively for the collective investment and reinvestment of monies contributed by the bank in its capacity as a trustee, executor, administrator, guardian, or custodian of certain accounts and in conformity with rules and regulations of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks (sec. 584(a)).

The common trust fund is not subject to tax and is not treated as a corporation (sec. 584(b)). Each participant in a common trust fund includes his proportional share of common trust fund income, whether or not the income is distributed or distributable (sec. 584(c)).

No gain or loss is realized by the fund upon admission or withdrawal of a participant. Participants generally treat their admission to the fund as the purchase of an interest. Withdrawals from the fund generally are treated as the sale of an interest by the participant (sec. 584(e)).

Regulated investment companies ("RICs")

A RIC also is treated as a conduit for Federal income tax purposes. Conduit treatment is accorded by allowing the RIC a deduction for dividend distributions to its shareholders. Present law is unclear as to the tax consequences when a common trust fund transfers its assets to one or more RICs.

House bill

No provision.

Senate amendment

In general, the Senate amendment permits a common trust fund to transfer substantially all of its assets to one or more RICs without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RICs solely in exchange for shares of the RICs, and the fund must then distribute the RIC shares to the fund's participants in exchange for the participants' interests in the fund.

The basis of any asset received by a RIC will be the basis of the asset in the hands of the fund prior to transfer (increased by the amount of gain recognized by reason of the rule regarding the assumption of liabilities). In addition, the basis of any RIC shares that are received by a fund participant will be an allocable portion of the participant's basis in the interests exchanged. If stock in more than one RIC is received in exchange for assets of a common trust fund, the basis of the shares in each RIC shall be determined by allocating the basis of common fund assets used in the exchange among the shares of each RIC received in the exchange on the basis of the respective fair market values of the RICs.

The tax-free transfer is not available to a common trust fund with assets that are not diversified under the requirements of section 368(a)(2)(F)(ii), except that the diversification test is modified so that Government securities are not to be included as securities of an issuer and are to be included in determining total assets for purposes of the 25- and 50-percent tests.

Effective date.—The provision is effective for transfers after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment. In order to qualify for the provision, the transfer by the common trust fund to the RIC must occur after December 31, 1995. The conferees intend that there is no requirement for qualification that the transfer of assets by the common trust fund to one or more RICs and the distribution of RIC shares to participants in the common trust fund be made contemporaneously or pursuant to a single plan.

6. TREATMENT OF QUALIFIED STATE TUITION PROGRAMS

(Sec. 1806 of the Senate amendment.)

Present law

In *Michigan* v. *United States*, 40 F.3d 817 (6th Cir. 1994), the Sixth Circuit held that the Michigan Education Trust, an entity created by the State of Michigan to operate a prepaid tuition payment program, is an integral part of the State, and, thus, the investment income realized by the Trust is not currently subject to Federal income tax. The Trust was established to receive advance payments of college tuition, invest the money, and ultimately make disbursements under a program that allows beneficiaries to attend any of the State's public colleges or universities without further tuition costs for a year or more (depending on the terms of the contract).

Section 115 of the Code provides that gross income does not include income derived from

any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia.

Section 2501 imposes a Federal gift tax on certain transfers of property by gift. Section 2503(e) specifically excludes from gifts subject to tax under section 2501 any "qualified transfer," which includes any amount paid on behalf of an individual as tuition to an educational institution (as described in sec. 170(b)(1)(A)(ii)) for the education or training of such individual.

On June 11, 1996, the Treasury Department issued final regulations under the original issue discount ("OID") provisions of the Code (secs. 163(e) and 1271 through 1275), including regulations relating to debt instruments that provide for contingent payments (see TD 8674). These regulations specifically provide that they do not apply to contracts issued pursuant to State-sponsored prepaid tuition programs, whether or not the contracts are debt instruments. In addition, the IRS announced in Rev. Proc. 96-34 that it will not issue advance rulings or determination letters regarding State-sponsored prepaid tuition plans because issues that arise under such plans are being studied.

House bill

No provision.

Senate amendment

The Senate amendment provides tax-exempt status to "qualified State tuition programs," meaning programs established and maintained by a State (or agency or instrumentality thereof) under which persons may (1) purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to a waiver or payment of qualified higher education expenses of the beneficiary, or (2) make contributions to an account that is established for the sole purpose of meeting qualified higher education expenses of the designated beneficiary of the account. "Qualified higher education expenses" are defined at tuition, fees, books, and equipment required for enrollment or attendance at a college or university (or certain vocational schools). The Senate amendment specifically provides that, although a qualified State tuition program generally is exempt from Federal income tax, such a program is subject to the unrelated business income tax (UBIT).[42]

A qualified State tuition program is required to provide that purchases or contributions only be made in cash. Contributors and beneficiaries are not allowed to direct any investments made on their behalf by the program. The program is required to maintain a separate accounting for each designated beneficiary. A specified individual must be designated as the beneficiary at the commencement of participation in a qualified State tuition program (i.e., when contributions are first made to purchase an interest in such a program[43]), unless interests in such a program are purchased by a State or local government or a tax-exempt charity described in section 501(c)(3) as part of a scholarship program operated by such government or charity under which beneficiaries to be named in the future will receive such interests as scholarships. A transfer of credits (or other amounts) from one account benefiting one designated beneficiary to another account benefiting a different beneficiary will be considered a distribution (as will a change in the designated beneficiary of an interest in a qualified State tuition program) unless the beneficiaries are members of the same family.[44] Earnings on an account may be refunded to a contributor or beneficiary, but the State or instrumentality must impose a more than de minimis monetary penalty unless the refund is (1) used for qualified higher education expenses of the beneficiary, (2) made on account of the death or disability of the beneficiary,[45] or (3) made on account of a scholarship received by the designated beneficiary to the extent the amount refunded does not exceed the amount of the scholarship used for higher education expenses. A qualified State tuition program may not allow any interest in the program or any portion thereof to be used as security for a loan.

In addition, the Senate amendment provides that no amount shall be included in the gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any distribution from, or earnings under, such program, except that (1) amounts distributed or educational benefits provided to a beneficiary (e.g., when the beneficiary attends college) will be included in the beneficiary's gross income (unless excludable under another Code section) to the extent such amount or the value of the educational benefits exceeds contributions made on behalf of the beneficiary, and (2) amounts distributed to a contributor (e.g., when a parent or other relative receives a refund) will be included in the contributor's gross income to the extent such amounts exceed contributions made by that person.[46]

The Senate amendment further provides that, for purposes of present-law section 2503(e), contributions made by an individual to a qualified State tuition program are treated as a qualified transfer and, thus, not subject to Federal gift tax.

Effective date.—The provision is effective for taxable years ending after the date of enactment. The bill also includes a transition rule providing that if (1) a State maintains (on the date of enactment) a program under which persons may purchase tuition credits on behalf of, or make contributions for educational expenses of, a designated beneficiary, and (2) such program meets the requirements of a qualified State tuition program before the later of (a) one year after the date of enactment, or (b) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after the date of enactment, then the provisions of the bill will apply to contributions (and earnings allocable thereto) made before the date the program meets the requirements of a qualified State tuition program, without regard to whether the requirements of a qualified State tuition program are satisfied with respect to such contributions and earnings (e.g., even if the interest in the tuition or educational savings program covers not only qualified higher education expenses but also room and board expenses).

Conference agreement

The conference agreement generally follows the Senate amendment, with the following modifications:

(1) A program will not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(2) Contributions made to a qualified State tuition program will be treated as incomplete gifts for Federal gift tax purposes. Thus, any Federal gift tax consequences will be determined at the time that a distribution is made from an account under the program.

(3) The waiver (or payment) of qualified higher education expenses of a designated beneficiary by (or to) an educational institution under a qualified State tuition program will be treated as a qualified transfer for purposes of present-law section 2503(e).[47]

(4) Amounts contributed to a qualified State tuition program (and earnings thereon) will be included in the contributor's estate for Federal estate tax purposes in the event that the contributor dies before such amounts are distributed under the program.

The conference agreement provides that any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of the Internal Revenue Code. Thus, the conferees understand that if matching-grant amounts are distributed to (or on behalf of) a beneficiary as part of a qualified State tuition program, then such matching-grant amounts still may be excluded from the gross income of the beneficiary as a scholarship under present-law section 117.

Effective date.—The conference agreement follows the Senate amendment.

7. ADOPTION ASSISTANCE

(Sec. 101 of H.R. 3286.)

Present law

Present law does not provide a tax credit for adoption expenses. Also, present law does not provide an exclusion from gross income for employer-provided adoption assistance. The Federal Adoption Assistance program (a Federal outlay program) provides financial assistance for the adoption of certain special needs children. In general, a special needs child is defined as a child who (1) according to a State determination, could not or should not be returned to the home of the

[42] The bill specifically provides that an interest in a qualified State tuition program will not be treated as debt for purposes of the UBIT debt-financed property rules (sec. 514). Consequently, a qualified State tuition program's investment income will not constitute debt-financed property income subject to the UBIT merely because the program accepts contributions and is obligated to pay out (or refund) such contributions and certain earnings thereon to designated beneficiaries or to contributors. However, investment income of a qualified State tuition program could be subject to the UBIT as debt-financed property income to the extent the program acquires indebtedness when investing the contributions made on behalf of designated beneficiaries.

[43] The bill allows for a change in designated beneficiaries, so long as the new beneficiary is a member of the family of the old beneficiary.

[44] For this purpose, the term "member of the family" is defined under present-law section 2032A(e)(2).

[45] Thus, a State need not impose a monetary penalty when a refund is made from a qualified State tuition program in order to cover medical expenses incurred by (or on behalf of) a designated beneficiary who suffers a disabling illness (and who could be any member of the same family of the originally designated beneficiary).

[46] Specifically, the bill provides that any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the same manner as provided under present-law section 72 to the extent not excluded from gross income under any other provision of the Code.

[47] In this regard, the conferees intend that if a qualified State tuition program issues a check in the names of both the designated beneficiary and an educational institution at which the beneficiary incurs (or will incur) qualified higher education expenses, then the issuance of the check will be considered a payment of qualified higher education expenses to an educational institution if the check (after endorsement by the beneficiary) is deposited in the institution's bank account.

birth parents and (2) on account of a specific factor or condition (such as ethnic background, age, membership in a minority or sibling group, medical condition, or physical, mental or emotional handicap), could not reasonably be expected to be adopted unless adoption assistance is provided. Specifically, the program provides assistance for adoption expenses for those special needs children receiving Federally assisted adoption assistance payments as well as special needs children in private and State-funded programs. The maximum Federal reimbursement is $1,000 per special needs child. Reimbursable expenses include those nonrecurring costs directly associated with the adoption process such as legal costs, social service review, and transportation costs.

House bill

Tax credit

No provision. However, H.R. 3286 provides taxpayers with a maximum nonrefundable credit against income tax liability of $5,000 per child for qualified adoption expenses paid or incurred by the taxpayer. Any unused adoption credit may be carried forward by the taxpayer for up to five years. Qualified adoption expenses are reasonable and necessary adoption fees, court costs, attorneys' fees and other expenses that are directly related to the legal adoption of an eligible child. In the case of an international adoption, the credit is not available unless the adoption is finalized. An eligible child is an individual (1) who has not attained age 18 as of the time of the adoption, or (2) who is physically or mentally incapable of caring for himself or herself. No credit is allowed for expenses incurred (1) in violation of State or Federal law, (2) in carrying out any surrogate parenting arrangement, or (3) in connection with the adoption of a child of the taxpayer's spouse. The credit is phased out ratably for taxpayers with modified adjusted gross income (AGI) above $75,000, and is fully phased out at $115,000 of modified AGI.

The credit is not allowed for any expenses for which a grant is received under any Federal, State, or local program. This limit, however, does not apply in the case of special needs adoptions.

Exclusion from income

The proposal provides a maximum $5,000 exclusion from the gross income of an employee for specified certain adoption expenses paid by the employer. The $5,000 limit is a per child limit, not an annual limitation. The exclusion is phased out ratably for taxpayers with modified AGI above $75,000 and is fully phased out at $115,000 of modified AGI.

No credit is allowed for adoption expenses paid or reimbursed under an adoption assistance program.

Effective date

The House bill is effective for taxable years beginning after December 31, 1996.

Senate amendment

Tax credit

The Senate amendment to H.R. 3286 is the same as the House bill, with three changes:

(1) The maximum credit is increased from $5,000 to $6,000 in the case of special needs adoptions.

(2) The credit for non-special needs adoptions is repealed for expenses paid or incurred after December 31, 2000.

(3) No credit is allowed in the case of special needs adoptions for expenses for which a grant is received under any Federal, State or local program.

Exclusion from income

The Senate amendment to H.R. 3286 is the same as the House bill except:

(1) The maximum exclusion is increased from $5,000 to $6,000 in the case of special needs adoptions.

(2) The exclusion is repealed after December 31, 2000.

Effective date

The Senate amendment to H.R. 3286 is the same as the House bill.

Conference agreement

Tax credit

The conference agreement follows the Senate amendment provision of H.R. 3286 with four modifications:

(1) The repeal of the credit for non-special needs adoptions is delayed for one year. Therefore, the credit for non-special needs adoptions is not available for expenses paid or incurred after December 31, 2001.

(2) Special needs foreign adoptions are limited to a maximum credit of $5,000 (rather than $6,000) for qualified adoption expenses until December 31, 2001, at which time the credit for special needs foreign adoptions is also repealed.

(3) The taxpayer is required to provide available information about the name, age, and taxpayer identification number of each adopted child.

(4) Otherwise, qualified adoption expenses paid in one taxable year are not taken into account for purposes of the credit until the next taxable year unless the expenses are incurred in the year the adoption becomes final.

Exclusion from income

The conference agreement follows the Senate amendment provision of H.R. 3286 with three modifications;

(1) The repeal of the exclusion is delayed for one year. Therefore, the exclusion is not available for expenses paid or incurred after December 31, 2001.

(2) Special needs foreign adoptions are limited to a maximum exclusion of $5,000 (rather than $6,000) for qualified adoption expenses until December 31, 2001, at which time the exclusion is repealed.

(3) The taxpayer is required to provide available information about the name, age, and taxpayer identification number of each adopted child.

Taxpayer identification numbers

The conference committee is concerned that problems may arise in processing tax returns of adopting parents because of unavoidable delays involved in obtaining a social security number of a child who is being adopted. The conference understands that the Internal Revenue Service recognizes these concerns and is committed to working with the Congress to develop as soon as possible an administrative solution that minimizes the burdens imposed on adopting parents while balancing processing and potential compliance considerations.

Effective date

The conference agreement follows the House bill and the Senate amendment.

The conferees wish to clarify the operation of the effective date by way of an example. Suppose that, in the course of attempting to adopt a child, a taxpayer incurs $1,000 in qualified adoption expenses in November, 1996, and an additional $3,000 in qualified adoption expenses in February, 1997, when the adoption becomes final. The taxpayer is entitled to claim a credit for tax year 1997 only with respect to the $3,000 of qualified adoption expenses in February, 1997. The taxpayer is never entitled to claim a credit with respect to the $1,000 in qualified adoption expenses in November, 1996, because those expenses were incurred prior to the effective date of this provision.

8. SIX-MONTH DELAY IN IMPLEMENTATION OF ELECTRONIC FUND TRANSFER SYSTEM FOR COLLECTION OF CERTAIN TAXES

Present law

Employers are required to withhold income taxes and FICA taxes from wages paid to their employees. Employers also are liable for their portion of FICA taxes, excise taxes, and estimated payments of their corporate income tax liability.

The Code requires the development and implementation of an electronic fund transfer system to remit these taxes and convey deposit information directly to the Treasury (Code sec. 6302(h)). The Electronic Federal Tax Payment System ("EFTPS") was developed by Treasury in response to this requirement.[48] Employers must enroll with one of two private contractors hired by the Treasury. After enrollment, employers generally initiate deposits either by telephone or by computer.

The new system is phased in over a period of years by increasing each year the percentage of total taxes subject to the new EFTPS system. For fiscal year 1994, 3 percent of the total taxes are required to be made by electronic fund transfer. These percentages increased gradually for fiscal years 1995 and 1996. For fiscal year 1996, the percentage was 20.1 percent (30 percent for excise taxes and corporate estimated tax payments). For fiscal year 1997, these percentages increased significantly, to 58.3 percent (60 percent for excise taxes and corporate estimated tax payments). The specific implementation method required to achieve the target percentages is set forth in Treasury regulations. Implementation began with the largest depositors. Treasury has implemented the 1997 percentages by requiring that all employers who deposit more than $50,000 in 1995 must begin using EFTPS by January 1, 1997.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conferees are concerned that the initial mailing by IRS to employers that informed them of the 1997 requirements confused many of these employers. The conferees believe that it is necessary to provide additional time prior to implementation of the 1997 requirements so that employers may be better informed about their responsibilities. Accordingly, the conference agreement provides that the increase in the required percentages for fiscal year 1997 (which, pursuant to Treasury regulations, was to take effect on January 1, 1997) shall not take effect until July 1, 1997.

Effective date.—The provision is effective on the date of enactment.

VI. REVENUE OFFSETS

1. MODIFICATIONS OF THE PUERTO RICO AND POSSESSION TAX CREDIT

(Sec. 1601 of the bill and the Senate amendment.)

[48] Treasury had earlier developed TAXLINK as the prototype for EFTPS. TAXLINK has been operational for several years; EFTPS is currently becoming operational. Employers currently using TAXLINK will ultimately be required to participate in EFTPS.

Present law

Certain domestic corporations with business operations in the U.S. possessions (including, for this purpose, Puerto Rico and the U.S. Virgin Islands) may elect the Puerto Rico and possession tax credit which generally eliminates the U.S. tax on certain income related to their operations in the possessions. In contrast to the foreign tax credit, the Puerto Rico and possession tax credit is a "tax sparing" credit. That is, the credit is granted whether or not the electing corporation pays income tax to the possession. Income eligible for the credit under this provision falls into two broad categories: (1) possession business income, which is derived from the active conduct of a trade or business within a U.S. possession or from the sale or exchange of substantially all of the assets that were used in such a trade or business; and (2) qualified possession source investment income ("QPSII"), which is attributable to the investment in the possession or in certain Caribbean Basin countries of funds derived from the active conduct of a possession business.

In order to qualify for the Puerto Rico and possession tax credit for a taxable year, a domestic corporation must satisfy two conditions. First, the corporation must derive at least 80 percent of it gross income for the three-year period immediately preceding the close of the taxable year from sources within a possession. Second, the corporation must derive at least 75 percent of its gross income for that same period from the active conduct of a possession business.

A domestic corporation that has elected the Puerto Rico and possession tax credit and that satisfies these two conditions for a taxable year generally is entitled to a credit based on the U.S. tax attributable to the sum of the taxpayer's possession business income and its QPSII. However, the amount of the credit attributable to possession business income is subject to the limitations enacted by the Omnibus Budget Reconciliation Act of 1993. Under the economic activity limit, the amount of the credit with respect to such income cannot exceed an amount equal to the sum of (i) 60 percent of the taxpayer's qualifying wage and fringe benefit expenses, (ii) specified percentages of the taxpayer's depreciation allowances with respect to qualifying tangible property, and (iii) in certain cases, the taxpayer's qualifying possession income taxes. The credit calculated under the economic activity limit is referred to herein as the "wage credit." In the alternative, the taxpayer may elect to apply a limit equal to the applicable percentage of the credit that would otherwise be allowable with respect to possession business income; the applicable percentage is phased down to 50 percent for 1995, 45 percent for 1997, and 40 percent for 1998 and thereafter. The credit calculated under the applicable percentage limit is referred to herein as the "income credit." The amount of the Puerto Rico and possession tax

House bill

In general.—The House bill generally repeals the Puerto Rico and possession tax credit for taxable years beginning after December 31, 1995. However, the House bill provides grandfather rules under which a corporation that is an existing credit claimant would be eligible to claim credits for a transition period. A special transition rule applies to the credit attributable to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

For taxable years beginning after December 31, 1995, the Puerto Rico and possession tax credit applies only to a corporation that qualifies as an existing credit claimant (as defined below). The determination of whether a corporation is an existing credit claimant is made separately for each possession. A corporation that is an existing credit claimant with respect to a possession is entitled to the credit for income from such possession for taxable years beginning after December 31, 1995, subject to the limitations described below. The credit, subject to such limitations, is computed separately for each possession with respect to which the corporation is an existing credit claimant.

The Puerto Rico and possession tax credit attributable to QPSII is eliminated for taxable years beginning after December 31, 1995. For taxable years beginning after December 31, 1995, the Puerto Rico and possession tax credit is available only with respect to possession business income. The computation of the Puerto Rico and possession tax credit attributable to possession business income during the grandfather period depends upon whether the corporation is using the economic activity limit or the applicable percentage limit.

Wage credit.—For corporations that are existing credit claimants with respect to a possession and that use the wage credit method, the possession tax credit attributable to business income from the possession (determined under the wage credit method) continues to be determined as under present law for taxable years beginning after December 31, 1995 and before January 1, 2002. For taxable years beginning after December 31, 2001 and before January 1, 2006, the corporation's possession business income that is eligible for the wage credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the credit attributable to possession business income (determined under the wage credit method) is eliminated.

The House bill adds to the Code a new section which provides a credit determined under the wage credit method for business income from Puerto Rico. Such credit is computed under the rules described above with respect to the possession tax credit determined under the wage credit method. Such section applies for taxable years beginning after December 31, 1995 and before January 1, 2006.

Income credit.—For corporations that are existing credit claimants with respect to a possession and that elected to use the income credit method and not to use the wage credit method, the Puerto Rico and possession tax credit attributable to business income from the possession continues to be determined as under present law for taxable years beginning after December 31, 1995 and before January 1, 1998. For taxable years beginning after December 31, 1997 and before January 1, 2006, the corporation's possession business income tax is eligible for the credit is subject to a cap computed as described below. For taxable years beginning in 2006 and thereafter, the credit attributable to possession business income (determined under the income credit method) is eliminated.

A corporation that had elected to use the income credit method is permitted to revoke that election under present law. Under the House bill, such a revocation is required to be made not later than with respect to the first taxable year beginning after December 31, 1996; such revocation, if made, applies to such taxable year and to all subsequent taxable years. Accordingly, a corporation that had an election in effect to use the income credit method could revoke such election effective for its taxable year beginning in 1997 and thereafter; such corporation would continue to use the income credit method for its taxable year beginning in 1996 and would use the wage credit method for its taxable year beginning in 1997 and thereafter.

Computation of income cap.—The cap on a corporation's possession business income that is eligible for the Puerto Rico and possession tax credit is computed based on the corporation's possession business income for the base period years ("average adjusted base period possession business income"). Average adjusted base period possession business income is the average of the adjusted possession business income for each of the corporation's base period years. For the purpose of this computation, the corporation's possession business income for a base period year is adjusted by an inflation factor that reflects inflation from such year to 1995. In addition, as a proxy for real growth in income throughout the base period, the inflation factor is increased by 5 percentage points compounded for each year from such year to the corporation's first taxable year beginning on or after October 14, 1995.

The corporation's base period years generally are three of the corporation's five most recent years ending before October 14, 1995, determined by disregarding the taxable years in which the adjusted possession business incomes were highest and lowest. For purposes of this computation, only years in which the corporation had significant possession business income are taken into account. A corporation is considered to have significant possession business income for a taxable year if such income exceeds two percent of the corporation's possession business income for the each of the six taxable years ending with the first taxable year ending on or after October 14, 1995. If the corporation has significant possession business income for only four of the five most recent taxable years ending before October 14, 1995, the base period years are determined by disregarding the year in which the corporation's possession business income was lowest. If the corporation has significant possession business income for three years or fewer of such five years, then the base period years are all such years. If there is no year of such five taxable years in which the corporation has significant possession business income, then the corporation is permitted to use as its base period its first taxable year ending on or after October 14, 1995; for this purpose, the amount of possession business income taken into account is the annualized amount of such income for the portion of the year ended September 30, 1995.

As one alternative, the corporation may elect to use its taxable year ending in 1992 as its base period (with the adjusted possession business income for such year constituting its cap). As another alternative, the corporation may elect to use as its cap the annualized amount of its possession business income for the first ten months of calendar year 1995, calculated by excluding any extraordinary items (as determined under generally accepted accounting principles) for such period. For this purpose, it is intended that transactions with a related party that are not in the ordinary course of business will be considered to be extraordinary items.

If a corporation's possession business income in a year for which the cap is applicable exceeds the cap, then the corporation's possession business income for purposes of computing its Puerto Rico and possession tax credit for the year is an amount equal to

the cap. The corporation's credit continues to be subject to either the economic activity limit or the applicable percentage limit, with such limit applied to the corporation's possession business income as reduced to reflect the application of the cap.

Qualification as existing credit claimant.—A corporation is an existing credit claimant with respect to a possession if (1) the corporation is engaged in the active conduct of a trade or business within the possession on October 13, 1995, and (2) the corporation has elected the benefits of the Puerto Rico and possession tax credit pursuant to an election which is in effect for its taxable year that includes October 13, 1995. A corporation that adds a substantial new line of business after October 13, 1995, ceases to be an existing credit claimant as of the beginning of the taxable year during which such new line of business is added.

For purposes of these rules, a corporation is treated as engaged in the active conduct of a trade or business within a possession on October 13, 1995, if such corporation is engaged in the active conduct of such trade or business before January 1, 1996, and such corporation has in effect on October 13, 1995, a binding contract for the acquisition of assets to be used in, or the sale of property to be produced in, such trade or business. For example, if a corporation has in effect on October 13, 1995, binding contracts for the lease of a facility and the purchase of machinery to be used in manufacturing business in a possession and if the corporation begins actively conducting that manufacturing business in the possession before January 1, 1996, that corporation would be an existing credit claimant. A change in the ownership of a corporation will not affect its status as an existing credit claimant.

In determining whether a corporation has added a substantial new line of business, the Committee intends that principles similar to those reflected in Treas. Reg. section 1.7704-2(d) (relating to the transition rules for existing publicly traded partnerships) apply. For example, a corporation that modifies its current production methods, expands existing facilities, or adds new facilities to support the production of its current product lines and products within the same four-digit Industry Number Standard Industrial Classification Code (Industry SIC Code) will not be considered to have added a substantial new line of business. In this regard, the Committee intends that the fact that a business which is added is assigned a different four-digit Industry SIC Code than is assigned to an existing business of the corporation will not automatically cause the corporation to be considered to have added a new line of business. For example, a pharmaceutical corporation that begins manufacturing a new drug will not be considered to have added a new line of business. Moreover, a pharmaceutical corporation that begins to manufacture a complete product from the bulk active chemical through the finished dosage form, a process that may be assigned two separate four-digit Industry SIC Codes, will not be considered to have added a new line of business even though it was previously engaged in activities that involved only a portion of the entire manufacturing process from bulk chemicals to finished dosages. The Committee further intends that, in the case of a merger of affiliated possession corporations that are existing credit claimants, the corporation that survives the merger will not be considered to have added a substantial new line of business by reason of its operation of the existing business of the affiliate that was merged into it.

Special rules for certain possessions.—A special transition rule applies to the Puerto Rico and possession tax credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. For any taxable year beginning after December 31, 1995, and before January 1, 2006, a corporation that is an existing credit claimant with respect to one of these possessions for such year continues to determine its credit with respect to operations in such possession as under present law. For taxable years beginning in 2006 and thereafter, the Puerto Rico and possession tax credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands is eliminated.

Effective date.—The House bill is effective for taxable years beginning after December 31, 1995.

Senate amendment

The Senate amendment is the same as the House bill with three modifications.

Under the Senate amendment, the Puerto Rico and possession tax credit attributable to QPSII continues to be allowed for QPSII earned before July 1, 1996.

Under the Senate amendment, a corporation that is an existing credit claimant continues to be eligible to claim credits under the wage credit method for taxable years beginning after December 31, 2005. For taxable years beginning in 2006 and thereafter, in computing the economic activity limit on the wage credit, the percentage of the corporation's qualifying wage and fringe benefit expenses that is taken into account is reduced from 60 percent of 40 percent. The corporation's business income that is eligible for the wage credit continues to be subject to the income cap. For taxable years beginning in 2006 and thereafter, a corporation that is an existing credit claimant with respect to Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands continues to be eligible to claim credits under the wage credit method, determined under the foregoing rules, with respect to its operations in such possession.

Under the Senate amendment, the Treasury Department is directed to study the effect on the economy of Puerto Rico of the wage credit (under present law and as amended), including an analysis of the impact of such credit on unemployment rates and economic growth. The Treasury Department is directed to submit to the House Committee on Ways and Means and the Senate Committee on Finance reports on its findings with respect to the impact of the wage credit within two years of the date of enactment and every four years thereafter.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement follows the House bill with modifications.

Under the conference agreement, as under the Senate amendment, the Puerto Rico and possession tax credit attributable to QPSII continues to be allowed for QPSII earned before July 1, 1996. The conferees note that the repeal of the credit for QPSII will have the effect of eliminating a provision that has supported economic development and trade-related growth in the Caribbean Basin and served U.S. interests in the region. The loss of this program should not be interpreted as a loss of U.S. interest in the region. The conferees continue to support efforts furthering stable commercial and economic relations in that region.

Under the conference agreement, a corporation that acquires all the assets of a trade or business of an existing credit claimant will qualify as an existing credit claimant. The adjusted base period income of the existing credit claimant from which the assets are acquired is divided between such corporation and the corporation that acquires such assets. It is intended that regulations or other guidance will prevent taxpayers from abusing this rule through transactions that manipulate base period income amounts.

Under the conference agreement, for purposes of estimated tax payments due before October 1, 1996, a taxpayer whose tax liability is increased by reason of the modifications of the Puerto Rico and possession tax credit is not required to make a deposit with respect to more than 50 percent of such increase; any amount not deposited by such date will be required to be deposited, without penalty or interest, on the next estimated tax payment due date.

2. REPEAL 50-PERCENT INTEREST INCOME EXCLUSION FOR FINANCIAL INSTITUTION LOANS TO ESOP'S

(Sec. 1602 of the House bill and the Senate amendment.)

Present law

A bank, insurance company, regulated investment company, or a corporation actively engaged in the business of lending money may generally exclude from gross income 50 percent of interest received on an ESOP loan (sec. 133). The 50-percent interest exclusion only applies if: (1) immediately after the acquisition of securities with the loan proceeds, the ESOP owns more than 50 percent of the outstanding stock or more than 50 percent of the total value of all outstanding stock of the corporation; (2) the ESOP loan term will not exceed 15 years; and (3) the ESOP provides for full pass-through voting to participants on all allocated shares acquired or transferred in connection with the loan.

House bill

The provision repeals the 50-percent interest exclusion with respect to ESOP's.

Effective date.—The provision generally is effective with respect to loans made after October 13, 1995. The repeal of the exclusion does not apply to the refinancing of an ESOP loan originally made on or before October 13, 1995, provided: (1) such refinancing loan otherwise meets the requirements of section 133 in effect on or before October 13, 1993; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.

Senate amendment

Same as the House bill.

Effective date.—The provision is effective with respect to loans made after the date of enactment, other than loans made pursuant to a written binding contract in effect before June 10, 1996, and at all times thereafter before such loan is made. The repeal of the 50-percent interest exclusion does not apply to the refinancing of an ESOP loan originally made on or before the date of enactment or pursuant to a binding contract in effect before June 10, 1996, provided: (1) such refinancing loan otherwise meets the requirements of section 133 in effect on the day before the date of enactment; (2) the outstanding principal amount of the loan is not increased; and (3) the term of the refinancing loan does not extend beyond the term of the original ESOP loan.

Conference agreement

The conference agreement follows the Senate amendment.

3. APPLY LOOK-THROUGH RULE FOR PURPOSES OF CHARACTERIZING CERTAIN SUBPART F INSURANCE INCOME AS UNRELATED BUSINESS TAXABLE INCOME

(Sec. 1602 of the House bill.)

Present law

An organization that is exempt from tax by reason of Code section 501(a) (e.g., a charity, business league, or qualified pension trust) is nonetheless subject to tax on its unrelated business taxable income (UBTI) (sec. 511). Unrelated business taxable income generally excludes dividend income (sec. 512(b)(1)).

Special rules apply to a tax-exempt organization described in section 501(c)(3) or (c)(4) (i.e., a charity or social welfare or organization) that is engaged in commercial-type insurance activities. Such activities are treated as an unrelated trade or business and the tax-exempt organization is subject to tax on the income from such insurance activities (including investment income that might otherwise be excluded from the definition of unrelated business taxable income) under subchapter L (sec. 501(m)(2)).[49] Accordingly, a tax-exempt organization described in section 501(c)(3) or (c)(4) generally is subject to tax on its income from commercial-type insurance activities in the same manner as a taxable insurance company.

A tax-exempt organization that conducts insurance activities through a foreign corporation is not subject to U.S. tax with respect to such activities. Under the subpart F rules, the United States shareholders (as defined in sec. 951(b)) of a controlled foreign corporation (CFC) are required to include in income currently their shares of certain income of the CFC, whether or not such income is actually distributed to the shareholders. This current inclusion rule applies to certain insurance income of the CFC (sec. 953). However, income inclusions under subpart F have been characterized as dividends for unrelated business income tax purposes.[50] Accordingly, insurance earned by the CFC that is includible in income currently under subpart F by the taxable United States shareholders of the CFC is excluded from unrelated business taxable income in the case of a shareholder that is a tax-exempt organization.

[49] If the commercial-type insurance activities constitute a substantial part of the organization's activities, the organization will not be tax-exempt under section 501(c)(3) or (c)(4) (sec. 501(m)(1)).

[50] The Internal Revenue Service has concluded in private letter rulings, which are not to be used or cited as precedent, that subpart F inclusions are treated as dividends received by the United States shareholders (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see LTRs 9407007 (November 12, 1993), 90227051 (April 13, 1990), 9024086 (March 22, 1990), 9024026 (March 15, 1990), 8922047 (March 6, 1989), 8836037 (June 14, 1988), 8819034 (February 10, 1988)). However, the IRS issued on private ruling in which it concluded that subpart F inclusions are treated as if the underlying income were realized directly by the United States shareholder (a tax-exempt entity) for purposes of computing the shareholder's UBTI (see LTR 9043039 (July 30, 1990)). This ruling gave no explanation for the IRS's departure from the position in its prior rulings, and the IRS reiterated in a subsequent ruling the position that subpart F inclusions are characterized as dividends for purposes of computing UBTI. Moreover, the application of the look-through rule in the ruling in question did not affect the ultimate result in the ruling because the income to which the subpart F inclusion was attributable was of a type that was excludible from UBTI. The conferees believe that LTR 9043039 (July 30, 1990) is incorrect in its application of a look-through rule in characterizing income inclusions under subpart F for unrelated business income tax purposes.

House bill

The House bill applies a look-through rule in characterizing certain subpart F insurance income for unrelated business income tax purposes. Under the House bill, the look-through rule applies to amounts that constitute insurance income currently includible in gross income under the subpart F rules and that are not attributable to the insurance of risks of (1) the tax-exempt organization itself, (2) certain tax-exempt affiliates of such organization, or (3) an officer or director of, or an individual who (directly or indirectly) performs services for, the tax-exempt organization (or certain tax-exempt affiliates) provided that the insurance covers primarily risks associated with the individual's performance of services in connection with the tax-exempt organization (or tax-exempt affiliates). For purposes of this provision, a tax-exempt organization is an affiliate of another tax-exempt organization if (1) the two organizations have significant common purposes and substantial common membership of (2) the two organizations have directly or indirectly substantial common direction or control.

Effective date.—The provision applies to amounts includible in gross income in taxable years beginning after December 31, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with one modification. For purposes of the provision, two or more organizations generally are treated as affiliates if such organizations are colleges or universities described in section 170(b)(1)(A)(ii) or hospitals or other medical entities described in section 170(b)(1)(A)(iii). Accordingly, in applying the provision to two or more such organizations that are the shareholders of a CFC, the exceptions from the look-through rule apply to each shareholder's share of the income attributable to insurance of risks of all such shareholders; the look-through rule applies to a shareholder's share of any income attributable to insurance of risks of a third party.

4. DEPRECIATION UNDER THE INCOME FORECAST METHOD

(Sec. 1604 of the House bill.)

Present law

In general

A taxpayer generally must capitalize the cost of property used in a trade or business and is allowed to recover such cost over time through allowances for depreciation or amortization.

The "income forecast" method is an allowable method for calculating depreciation for certain property. Under the income forecast method, the depreciation deduction for a taxable year for a property is determined by multiplying the cost of the property[51] (less estimated salvage value) by a fraction, the numerator of which is the income generated by the property during the year and the denominator of which is the total forecasted or estimated income to be derived from the property during its useful life. The income forecast method has been held to be applicable for computing depreciation deductions for motion picture films, television films and taped shows, books, patents, master sound recordings and video games. The total forecasted or estimated income to be derived from a property is to be based on the conditions known to exist at the end of the period for which depreciation is claimed.

[51] In *Transamerica Corp.* v. *U.S.*, 999 F.2d 1362, (9th Cir. 1993), the Ninth Circuit overturned the District Court and held that, for purposes of applying the income forecast method to a film, the "cost of a film" includes "participation" and "residual" payments (i.e., payments to producers, writers, directors, actors, guilds, and others based on a percentage of the profits from the film) even though these payments were contingent on the occurrence of future events. It is unclear to what extent, if any, the *Transamerica* decision applies to amounts incurred after the enactment of the economic performance rules of Code section 461(h), as contained in the Deficit Reduction Act of 1984.

House bill

The House bill makes several amendments to the income forecast method of determining depreciation deductions.

First, the bill provides that income to be taken into account under the income forecast method includes all estimated income generated by the property. In applying this rule, a taxpayer generally need not take into account income expected to be generated after the close of the tenth taxable year after the year the property was placed in service. Pursuant to a special rule, in the case of television and motion picture films, the income from the property shall include income from the financial exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent the income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related to the taxpayer (within the meaning of sec. 267(b)). In addition, pursuant to another special rule, if a taxpayer produces a television series and initially does not anticipate syndicating the episodes from the series, the forecasted income for the episodes of the first three years of the series need not take into account any future syndication fees (unless the taxpayer enters into an arrangement to syndicate such episodes during such period). The 10th-taxable-year rule, the financial exploitation rule, and the syndication rule apply for purposes of the lookback method described below.

Second, the adjusted basis of property that may be taken into account under the income forecast method only will include amounts that satisfy the economic performance standard of section 461(h).

Finally, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or would receive) interest based on the recalculation of depreciation under a "look-back" method. The "look-back" method is applied in any "recomputation year" by (1) comparing depreciation deductions that had been claimed in prior periods to depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621 of the Code. Except as provided in Treasury regulations, a "recomputation year" is the third and tenth taxable year after the taxable year the property was placed in service, unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years. Property that had a basis of $100,000 or less when placed in service is not subject to the look-back method.

Effective date.—The provision is effective for property placed in service after September 13, 1995, unless placed in service pursuant

to a binding written contract in effect on such date and all times thereafter.

Senate amendment

No provision. A similar provision was contained in section 402 of the Senate amendment to H.R. 3286, the "Adoption, Promotion and Stability Act of 1996," as favorably reported by the Senate Finance Committee on June 12, 1996.

Conference agreement

The conference agreement follows the provision that was contained in section 402 of the Senate amendment to H.R. 3286, the "Adoption, Promotion and Stability Act of 1996," as favorably reported by the Senate Finance Committee on June 12, 1996. Thus, the conference agreement provides the following modifications to the income forecast method of present law.

Determination of estimated income

First, the agreement provides that income to be taken into account under the income forecast method includes all estimated income generated by the property. In applying this rule, a taxpayer generally need not take into account income expected to be generated after the close of the tenth taxable year after the year the property was placed in service. In the case of a film, television show, or similar property, such income includes, but is not necessarily limited to, income form foreign and domestic theatrical, television, and other releases and syndications; and video tape releases, sales, rentals, and syndications.

Pursuant to a special rule, in the case of television and motion picture films, the income from the property shall include income from the financial exploitation of characters, designs, scripts, scores, and other incidental income associated with such films, but only to the extent the income is earned in connection with the ultimate use of such items by, or the ultimate sale of merchandise to, persons who are not related to the taxpayer (within the meaning of sec. 267(b)). As an example of this special rule, assume a taxpayer produces a motion picture the subject of which is the adventures of a newly-created fictional character. If the taxpayer produces dolls or T-shirts using the character's image, income from the sales of these products by the taxpayer to consumers would be taken into account in determining depreciation for the motion picture under the income forecast method. Similarly, if the taxpayer enters into any licensing or similar agreement with an unrelated party with respect to the use of the image, such licensing income would be taken into account in determining depreciation for the motion picture. However, if the taxpayer uses the character's image to promote a ride at an amusement park that is wholly-owned by the taxpayer, no portion of the admission fees for the amusement park are to be taken into account under the income forecast method with respect to the motion picture.

In addition, pursuant to another special rule, if a taxpayer produces a television series and initially does not anticipate syndicating the episodes from the series, the forecasted income for the episodes of the first three years of the series need not take into account any future syndication fees (unless the taxpayer enters into an arrangement to syndicate such episodes during such period).

The 10th-taxable-year rule, the financial exploitation rule, and the syndication rule apply for purposes of the look-back method described below.

Determination and treatment of costs of property

The adjusted basis of property that may be taken into account under the income forecast method only will include amounts that satisfy the economic performance standard of section 461(h).[52] For this purpose, if the taxpayer incurs a noncontingent liability to acquire property subject to the income forecast method from another person, economic performance will be deemed to occur with respect to such noncontingent liability when the property is provided to the taxpayer. In addition, the recurring item exception of section 461(h)(3) will apply in a manner similar to the way such exception applies under present law. Thus, expenditures that relate to an item of property that are incurred in the taxable year following the taxable year in which the property is placed in service may be taken into account in the year the property is placed in service to the extent such expenditures meet the recurring item exception for such year.

Any costs that are taken into account after the property is placed in service are treated as a separate piece of property to the extent (1) such amounts are significant and are expected to give rise to a significant increase in the income from the property that was not included in the estimated income from the property, or (2) such costs are incurred more than 10 years after the property was placed in service. To the extent costs are incurred more than 10 years after the property was placed in service and give rise to a separate piece of property for which no income is generated, such costs may be written off and deducted they are incurred. For example, assume a taxpayer places property subject to the income forecast method in service during a taxable year and all income from the property is generated in the following four-year period. If the taxpayer incurs additional costs with respect to that property more than 10 years later (e.g., a payment pursuant to a deferred contingent compensation arrangement to a person that produced the property), such costs may be deducted in the year incurred provided no more income is generated with respect to such costs or the original property.

Any costs that are not recovered by the end of the tenth taxable year after the property was placed in service may be taken into account as depreciation in such year.

Look-back method

Finally, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or would receive) interest based on the recalculation of depreciation under a "look-back" method.[53] The "look-back" method is applied in any "recomputation year" by (1) comparing depreciation deductions that had been claimed in prior periods of depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621 of the Code.

Except as provided in Treasury regulations, a "recomputation year" is the third and tenth taxable year after the taxable year the property was placed in service, unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years. The Secretary of the Treasury has the authority to allow a taxpayer to delay the initial application of the look-back method where the taxpayer may be expected to have significant income from the property after the third taxable year after the taxable year the property was placed in service (e.g., the Treasury Secretary may exercise such authority where the depreciable life of the property is expected to be longer than three years).

In applying the look-back method, any cost that is taken into account after the property was placed in service may be taken into account by discounting (using the Federal mid-term rate determined under sec. 1274(d) as of the time the costs were taken into account) such cost to its value as of the date the property was placed in service.

Property that had an unadjusted basis of $100,000 or less is not subject to the look-back method. For this purpose, "unadjusted basis" means the total capitalized cost of a property as of the close of a recomputation year.

The agreement provides a simplified look-back method for pass-through entities.

Effective date

The agreement is effective for property placed in service after September 13, 1995, unless produced or acquired pursuant to a binding written contract in effect on such date and all times thereafter. For this purpose, the binding contract exception may apply to a written contract in effect on the relevant dates if that contract binds a taxpayer to produce, license or deliver property that will be used by the other party to the contract once the property is produced.

The agreement may apply to property placed in service in taxable years that ended before the date of enactment of this Act. The agreement waives additions to tax imposed under sections 6654, 6655, and 6662(d) for any underpayments of tax or estimated tax for any taxable year ending before the date of enactment of this Act to the extent the underpayment was created or increased by the changes made to the income forecast method of depreciation by the provision. The application of the agreement (including the look-back method) is not waived for any taxable year that ends after the date of enactment of this Act.

5. MODIFY EXCLUSION OF DAMAGES RECEIVED ON ACCOUNT OF PERSONAL INJURY OR SICKNESS

(Sec. 1605 of the House bill and sec. 1603 of the Senate amendment.)

Present law

Under present law, gross income does not include any damages received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal injury or sickness (sec. 104(a)(2)).

The exclusion from gross income of damages received on account of personal injury or sickness specifically does not apply to punitive damages received in connection with a case not involving physical injury or sickness. Courts presently differ as to whether the exclusion applies to punitive damages received in connection with a case involving a physical injury or physical sickness.[54] Certain States provide that, in the case of

[52] No inference is intended as to the proper application of section 461(h) to the income forecast method under present law.

[53] The "look-back" method of the provision resembles the look-back method applicable to long-term contracts accounted for under the percentage-of-completion method of present-law sec. 460.

[54] The Supreme Court recently agreed to decide whether punitive damages awarded in a physical injury lawsuit are excludable from gross income.

claims under a wrongful death statute, only punitive damages may be awarded.

Courts have interpreted the exclusion from gross income of damages received on account of personal injury or sickness broadly in some cases to cover awards for personal injury that do not relate to a physical injury or sickness. For example, some courts have held that the exclusion applies to damages in cases involving certain forms of employment discrimination and injury to reputation where there is no physical injury or sickness. The damages received in these cases generally consist of back pay and other awards intended to compensate the claimant for lost wages or lost profits. The Supreme Court recently held that damages received based on a claim under the Age Discrimination in Employment Act could not be excluded from income.[55] In light of the Supreme Court decision, the internal Revenue Service has suspended existing guidance on the tax treatment of damages received on account of other forms of employment discrimination.

House bill

Include in income all punitive damages

The House bill provides that the exclusion from gross income does not apply to any punitive damages received on account of personal injury or sickness whether or not related to a physical injury or physical sickness. Under the House bill, present law continues to apply to punitive damages received in a wrongful death action if the applicable State law (as in effect on September 13, 1995 without regard to subsequent modification) provides, or has been construed to provide by a court decision issued on or before such date, that only punitive damages may be awarded in a wrongful death action. No inference is intended as to the application of the exclusion to punitive damages prior to the effective date of the House bill in connection with a case involving a physical injury or physical sickness.

Include in income damage recoveries for nonphysical injuries

The House bill provides that the exclusion from gross income only applies to damages received on account of a personal physical injury or physical sickness. If an action has its origin in a physical injury or physical sickness, then all damages (other than punitive damages) that flow therefrom are treated as payments received on account of physical injury or physical sickness whether or not the recipient of the damages is the injured party. For example, damages (other than punitive damages) received by an individual on account of a claim for loss of consortium due to the physical injury or physical sickness of such individual's spouse are excludable from gross income. In addition, damages (other than punitive damages) received on account of a claim of wrongful death continue to be excludable from taxable income as under present law.

The House bill also specifically provides that emotional distress is not considered a physical injury or physical sickness.[56] Thus, the exclusion from gross income does not apply to any damages received (other than for medical expenses as discussed below) based on a claim of employment discrimination or injury to reputation accompanied by a claim of emotional distress. Because all damages received on account of physical injury or physical sickness are excludable from gross income, the exclusion from gross income applies to any damages received based on a claim of emotional distress that is attributable to a physical injury or physical sickness. In addition, the exclusion from gross income specifically applies to the amount of damages received that is not in excess of the amount paid for medical care attributable to emotional distress.

No inference is intended as to the application of the exclusion to damages prior to the effective date of the House bill in connection with a case not involving a physical injury or physical sickness.

Effective date.—The provisions generally are effective with respect to amounts received after June 30, 1996. The provisions do not apply to amounts received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

Senate amendment

Include in income all punitive damages

The Senate amendment is the same as the House bill.

Include in income damage recoveries for nonphysical injuries

No provision.

Conference agreement

Include in income all punitive damages

The conference agreement follows the House bill and the Senate amendment.

Include in income damage recoveries for nonphysical injuries

The conference agreement follows the House bill.

Effective date.—The provision generally are effective with respect to amounts received after date of enactment. The provisions do not apply to amounts received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

6. REPEAL ADVANCE REFUNDS OF DIESEL FUEL TAX FOR PURCHASERS OF DIESEL-POWERED AUTOMOBILES, VANS AND LIGHT TRUCKS

(Sec. 1606 of the House bill.)

Present law

Excise taxes are imposed on gasoline (14 cents per gallon) and diesel fuel (20 cents per gallon) to fund the Federal Highway Trust Fund. Before 1985, the gasoline and diesel fuel tax rates were the same. The predominate highway use of diesel fuel is by trucks. In 1984, the diesel excise tax rate was increased above the gasoline tax as the revenue offset for a reduction in the annual heavy truck use tax. Because automobiles, vans, and light trucks did not benefit from the use tax reductions, a provision was enacted allowing first purchasers of model year 1979 and later diesel-powered automobiles and light trucks a tax credit to offset this increased diesel fuel tax. The credit is $102 for automobiles and $198 for vans and light trucks.

House bill

The House bill repeals the tax credit for purchasers of diesel-powered automobiles, vans and light trucks.

Effective date.—Vehicles purchased after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

7. EXTENSION AND PHASEOUT OF EXCISE TAX ON LUXURY AUTOMOBILES

(Sec. 1604 of the bill and sec. 4001 of the Code.)

Present law

Present law imposes an excise tax on the sale of an automobile whose price exceeds a designated threshold, currently $34,000. The excise tax is imposed at a rate of 10-percent on the excess of the sales price above the designated threshold. The $34,000 threshold is indexed for inflation.

The tax applies to sales before January 1, 2000.

House bill

No provision.

Senate amendment

The Senate amendment extends and phases out the luxury tax on automobiles. The tax rate is reduced by one percentage point per year beginning in 1996. The tax rate for sales (on or after the date of enactment plus seven days) in 1996 is 9 percent. The tax rate for sales in 1997 is 8 percent. The tax rate for sales in 1998 is 7 percent. The tax rate for sales in 1999 is 6 percent. The tax rate for sales in 2000 is 5 percent. The tax rate for sales in 2001 is 4 percent. The tax rate for sales in 2002 is 3 percent. The tax will expire after December 31, 2002.

Effective date.—The provision is effective for sales on or after date of enactment plus seven days.

Conference agreement

The conference agreement follows the Senate amendment.

8. ALLOW CERTAIN PERSONS ENGAGED IN THE LOCAL FURNISHING OF ELECTRICITY OR GAS TO ELECT NOT TO BE ELIGIBLE FOR FUTURE TAX-EXEMPT BOND FINANCING

(Sec. 1605 of the amendment.)

Interest on State and local government bonds generally is excluded from income except where the bonds are issued to provide financing for private parties. Present law includes several exceptions, however, that allow tax-exempt bonds to be used to provide financing for certain specifically identified private parties. One such exception allows tax-exempt bonds to be issued to finance facilities for the furnishing of electricity or gas by private parties if the area served by the facilities does not exceed (1) two contiguous counties or (2) a city and a contiguous county (commonly referred to as the "local furnishing" of electricity or gas).

Most private activity tax-exempt bonds are subject to general State private activity bond volume limits of $50 per resident of the State ($150 million, if greater) per year. Tax-exempt bonds for facilities used in the local furnishing of electricity or gas are subject to this limit. Like most other private beneficiaries of tax-exempt bonds, borrowers using tax-exempt bonds to finance these facilities are denied interest deductions on the debt underlying the bonds if the facilities cease to be used in qualified local furnishing activities. Additionally, as with all tax-exempt bonds, if the use of facilities financed with the bonds changes to a use a not qualified for tax-exempt financing after the debt is incurred, interest on the bonds becomes taxable unless certain safe harbor standards are satisfied.

House bill

No provision.

Senate amendment

The Senate amendment allows persons that have received tax-exempt financing of

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O'gilvie v. *U.S.*, 66 F.3d 1550 (10th Cir. 1995), cert. granted, 64 U.S.L.W. 36+39 (U.S. March 25, 1996) (No. 95-966). Also, the Tax Court recently held that if punitive damages are not of a compensatory nature, they are not excludable from income, regardless of whether the underlying claim involved a physical injury or physical sickness. *Bagley* v. *Commissioner*, 105 T.C. No. 27 (1995).

[55] *Schleier* v. *Commissioner*, 115 S. Ct. 2159 (1995).

[56] It is intended that the term emotional distress includes symptoms (e.g., insomnia, headaches, stomach disorders) which may result from such emotional distress.

facilities that currently qualify as used in the local furnishing of electricity or gas to elect to terminate their qualification for this tax-exempt financing and to expand their service areas without incurring the present-law loss of interest deductions and loss of tax-exemption penalties if—

(1) no additional bonds are issued for facilities of the person making the election (or were issued for any predecessor) after the date of the provision's enactment;

(2) the expansion of the person's service area is not financed with any tax-exempt bond proceeds; and

(3) all outstanding tax-exempt bounds of the person making the election (and any predecessor) are redeemed no later than six months after the earliest date on which redemption is not prohibited under the terms of the bonds, as issued, (or six months after the election, if later).

Except as described below, the provision further limits the local furnishing exception to bonds for facilities of (1) of persons that qualified as engaged in that activity on the date of the provision's enactment and (2) that serve areas served by those persons on that date. The area which is considered to be served on the date of the provision's enactment consists of the geographic area in which service actually is being provided on that date. Service initially provided after the date of enactment to a new customer within that area (e.g., as a result of new construction or of a change in heating fuel type) is not treated as a service area expansion.

For purposes of this requirement, a change in the identity of a person serving an area is disregarded if the change is the result of a corporate reorganization where the area served remains unchanged and there is common ownership of both the predecessor and successor entities. To facilitate compliance with electric and gas industry restructuring now in progress, the Senate amendment further permits continued qualification of successor entities under a "step-in-the-shoes" rule without regard to common ownership if the service provided remains unchanged and the area served after the facilities are transferred does not exceed the service area before the transfer. For example, if facilities of a person engaged in local furnishing are sold to another person, the purchaser (when it engages in otherwise qualified local furnishing activities) is eligible for continued tax-exempt financing to the same extent that the seller would have been had the sale not occurred if the service provided and the area served by the facilities do not change.

Similarly, a purchaser "steps into the shoes" of its seller with regard to eligibility (or the lack thereof) for making the election to terminate its status as engaged in local furnishing without imposition of certain penalties on outstanding tax-exempt bonds. For example, if a person engaged in local furnishing activities on the date of the provision's enactment receives financing from tax-exempt bonds issued after the date of the provision's enactment (and is thereby ineligible to make the election), any purchaser from that person likewise is ineligible.

Effective date.—The Senate amendment is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, with two modifications to the portion of the provision that generally limits the benefit of tax-exempt financing to persons engaged in local furnishing activities on the date of the provision's enactment. First, the conference agreement allows certain expansions of existing local furnishing service areas to occur after the effective date of the provision without affecting continued qualification under the local furnishing exception, both within the existing service area and in the expansion area. Under this modification, a qualified local furnishing service area which includes a portion of a city or a county on the effective date of the provision may be expanded after that date to include other portions of the same city or county. For example, if a gas utility's service area on the effective date of the provision includes only an urban section of a county, a subsequent expansion of the utility's service area to include rural portions of the same county (e.g., as a result of population growth), does not in itself preclude qualification of the entire, expanded service area as a local furnishing area. This exception does not, however, allow expansion of local furnishing service areas beyond the borders of a city or county where service is being provided on the effective date of the provision or interconnection of facilities serving those areas with other facilities or persons in a manner not permitted under present law.

Second, the date by which an entity must be engaged in local furnishing activities (i.e., have facilities for local furnishing placed in service in that activity) as a condition of receiving future tax-exempt financing is delayed until January 1, 1997 (rather than the date of the provision's enactment).

The conferees also wish to clarify several questions that have risen since passage of the Senate amendment with respect to the limitation on future eligibility under the local furnishing exception. First, because the conference agreement precludes issuance of tax-exempt bonds except for local furnishers engaged in that activity on January 1, 1997 (and successors in interest), the statutory wording of the provision differs from the traditional focus of the local furnishing exception on a two county (or city and contiguous county) area without regard to the entity providing the service. The statutory references to "persons" engaged in the local furnishing of electricity or gas contained in the conference agreement are intended to prevent new entities (other than successors in interest) from qualifying for tax-exempt financing under the local furnishing exception. They are not to be construed in a manner affecting the tax-exempt status of interest on any outstanding bonds or the receipt of additional tax-exempt financing by an existing local furnisher, provided that the facilities financed with those bonds are used at all times in qualified local furnishing activities (defined under present law as modified by the conference agreement) and the bonds comply otherwise with the Internal Revenue Code's requirements for tax-exemption.

Second, the conferees are aware that present-law disregards certain transmission of electricity pursuant to FERC orders in determining whether a facility is used in the local furnishing of electricity. The conference agreement retains the relevant statutory rule to that effect, and the conferees intend no change in that rule.

Third, the conferees wish to clarify, by example, the application of the restriction on qualified local furnishing activities contained in this portion of the conference agreement to certain utility transactions such as those that may be expected to occur as a result of deregulation of the electric and gas industries.

Example (1).—As part of a corporate reorganization, an existing local furnishing utility sells a portion of its service area to a third party. The retained portion of the utility's service territory continues to qualify for tax-exempt financing under the local furnishing exception provided that no violations of that exception such as an impermissible interconnection with facilities outside the area occur. The determination of whether the portion of the service territory that is sold to a third party continues to qualify under the local furnishing exception depends on the manner in which the purchaser provides service in the area it acquires. If, for example, the purchaser operates in the area which it purchases in a manner that otherwise qualifies under the local furnishing exception, the purchaser is treated as a successor in interest to the seller and facilities for the area that is sold continue to be treated as used in local furnishing. However, if that area is merged into, or impermissibly (under present-law rules) and interconnected with, another service area that does not qualify as a local furnishing area after the transaction, the successor in interest rule does not preserve the status as a local furnishing area of the area sold.

Example (2).—Two independent utilities, both qualifying as engaged in local furnishing on the effective date of the provision, serve adjoining areas. The utilities decide to adjust their common service area boundary line to eliminate irregular geographic patterns. The parties to this transaction may be treated as successors in interest with respect to the area each acquires if the resulting service areas each qualify under the local furnishing exception (as modified by the conference agreement).

Example (3).—Assume the facts of Example (2), except the area acquired by one of the utilities is in a county where it did not provide service before the boundary line adjustments, and the utility's resulting service area includes all or part of three counties. That utility would no longer qualify as engaged in local furnishing under present law. The result is the same under the conference agreement.

Example (4).—Assume the facts of Example (2), except the utilities merge into a single company with a single service area. If the resulting combined service area of the new company does not exceed two counties (or a city and a contiguous county), the new company continues to be eligible for tax-exempt financing as a successor in interest.

Example (5).—Assume that a local furnishing utility decides to contract with a newly-formed independent power generating venture to construct a generating plant that will sell electricity to it exclusively for use in its service area. Tax-exempt bonds may not be issued under the local furnishing exception for construction of the generating plant. The independent power producer was neither engaged in the local furnishing of electricity to the service area involved on the effective date of the conference agreement's restriction nor is it a successor in interest under the agreement.

Effective date.—These provisions are effective on the date of the conference agreement's enactment.

9. REPEAL OF FINANCIAL INSTITUTION TRANSITION RULE TO INTEREST ALLOCATION RULES

Present law

For foreign tax credit purposes, taxpayers generally are required to allocate and apportion interest expense U.S. and foreign source income based on the proportion of the taxpayer's total assets in each location. Such allocation and apportionment is required to be made for affiliated groups (as defined in sec. 864(e)(5)) as a whole rather than on a

subsidiary-by-subsidiary basis. However, certain types of financial institutions that are members of an affiliated group are treated as members of a separate affiliated group for purposes of allocating and apportioning their interest expense. Section 1215(c)(5) of the Tax Reform Act of 1986 (P.L. 99-145, 100 Stat. 2548) includes a targeted rule which treats a certain corporation as a financial institution for this purpose.

House bill

No provision.

Senate amendment

No provision. However section 1606 of the Senate amendment to H.R. 3448 (Small Business Job Protection Act of 1996) contained a provision that repeals section 1215(c)(5) of the Tax Reform Act of 1986.

Effective date.—Taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement does not include the Senate amendment provision.

10. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES

(Sec. 1607 of the Senate amendment and secs. 4041, 4081, 4261, and 4271 of the Code)

Present law

Extension of aviation taxes

Before January 1, 1996, the following excise taxes were imposed to fund the Airport and Airway Trust Fund: (1) a 10-percent tax on domestic air passenger tickets; (2) a 6.25-percent tax on domestic air freight waybills; (3) a $6-per-person tax on international air departures; (4) a 17.5 cents-per-gallon tax on jet fuel used in noncommercial aviation; and (5) a 15-cents-per-gallon tax on gasoline used in noncommercial aviation (14 cents per gallon of this tax continues, with the revenues being deposited in the Highway Trust Fund). In addition, jet fuel and gasoline used in noncommercial aviation are subject to a tax of 4.3 cents per gallon, the revenues of which are deposited in the General Fund of the Treasury. Prior to January 1, 1996, of the total tax of 19.3 cents per gallon imposed on gasoline used in noncommercial aviation, 18.3 cents per gallon was collected when the gasoline was removed from a pipeline or barge terminal. The remaining 1 cent per gallon was imposed at the retail level.

Exemption for certain medical air transportation

An exemption is provided from the air passenger and air freight taxes for emergency medical helicopter transportation if the helicopter does not take off from or land at Federally assisted airports or otherwise use Federal aviation facilities or services.

Exemption for helicopters used in exploration or development of hard minerals or oil or gas

An exemption is provided from the air passenger tax for helicopter transportation for exploration, development, or removal of hard minerals or oil or gas if the helicopter does not take off from or land at Federally assisted airports or otherwise use Federal aviation facilities or services.

Transportation of employees of affiliated companies

Generally, when employees fly on their employer's aircraft, the fuel tax applies, but when a company flies other passengers for compensation or hire, the passenger ticket tax applies. Employees of affiliated corporations do not cause the air ticket tax to apply. The Internal Revenue Service has interpreted the use limitation of present-law section 4282 on an all-or nothing basis relating to aircraft of affiliated groups. That is, if an aircraft is available for hire by persons outside the affiliated group, all amounts paid for transportation, including charges among members of an affiliated group, are subject to the passenger ticket tax rather than the fuels tax.[57]

House bill

No provision.

Senate amendment

Extension of aviation taxes

The five Airport and Airway Trust Fund excise taxes are reinstated at the pre-1996 rates for the period beginning seven days after the date of enactment through April 15, 1997.

Exemption for certain medical air transportation

The Senate amendment: (1) expands the exemption for emergency medical helicopters to also include fixed-wing aircraft equipped for and exclusively dedicated to acute care emergency medical services; and (2) removes the reference to non-use of Federally assisted airports or other Federal aviation facilities or services for such medical aircraft to qualify for the exemption.

Exemption for helicopters used in exploration or development of hard minerals or oil or gas

The Senate amendment provides that the exemption for such helicopter transportation applies on a flight segment basis.

Effective date.—The Senate amendment applies for transportation or fuel sold beginning seven days after the date of enactment. The air passenger and air freight taxes do not apply to any amount paid before that date, even if for transportation occurring during the reinstatement period.

Conference agreement

The conference agreement follows the Senate amendment with three modifications. First, the conference agreement reinstates the five Airport and Airway Trust Fund excise taxes at the pre-1996 rates for the period beginning seven calendar days after the date of enactment and through December 1, 1996 (rather than through April 15, 1997).

Second, the conference agreement consolidates imposition of the aviation gasoline excise tax, with the entire 19.3-cents-per-gallon rate being imposed when the gasoline is removed from a pipeline or barge terminal facility.

Third, the conference agreement provides that the determination of which tax, the passenger ticket tax or the fuels tax, applies to flights of aircraft of affiliated groups of corporations will be made on a flight-by-flight basis.

Effective date,—Same as Senate amendment.

11. MODIFY BASIS ADJUSTMENT RULES UNDER SECTION 1033

(Sec. 1608 of the Senate amendment.)

Present law

Under section 1033, gain realized by a taxpayer from certain involuntary conversions of property is deferred to the extent the taxpayer purchases property similar or related in service of use to the converted property within a specified replacement period of time. The replacement property may be acquired directly or by acquiring control of a corporation (generally, 80 percent of the stock of the corporation) that owns replacement property. The taxpayer's basis in the replacement property generally is the same as the taxpayer's basis in the converted property, decreased by the amount of any money or loss recognized on the conversion, and increased by the amount of any gain recognized on the conversion. In cases in which a taxpayer purchases stock as replacement property, the taxpayer generally reduces the basis of the stock, but does not reduce the basis of the underlying assets. Thus, the reduction in the basis of the stock generally does not result in reduced depreciation deductions where the corporation holds depreciable property, and may result in the taxpayer having more aggregate depreciable basis after the acquisition of replacement property than before the involuntary conversion.

House bill

No provision.

Senate amendment

The Senate amendment provides that where the taxpayer satisfies the replacement property requirement of section 1033 by acquiring stock in a corporation, the corporation generally will reduce its adjusted bases in its assets by the amount by which the taxpayer reduces its basis in the stock. The corporation's adjusted bases in its assets will not be reduced, in the aggregate, below the taxpayer's basis is its stock (determined after the appropriate basis adjustment for the stock). In addition, the basis of any individual asset will not be reduced below zero. The basis reduction first is applied to: (1) property that is similar or related in service or use to the converted property, then (2) to other depreciable property, then (3) to other property.

Effective date.—The provision applies to involuntary conversions occurring after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

12. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS

(Sec. 1609 of the Senate amendment.)

Present law

In general, proceeds from a wagering transaction are subject to withholding at a rate of 28 percent if the proceeds exceed $5,000 and are at least 300 times as large as the amount wagered. No withholding tax is imposed on winnings from bingo or keno.

House bill

No provision.

Senate amendment

The Senate amendment imposes withholding on proceeds from bingo or keno wagering transactions at a rate of 28 percent if such proceeds exceed $5,000, regardless of the odds of the wager.

Effective date.—The provision is effective 30 days after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment provision.

13. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES

(Sec. 1610 of the Senate amendment.)

Present law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or

[57] Rev. Rul. 770405, 1977-2 C.B. 381; Rev. Rul. 76-394, 1976-2 C.B. 355.

the reserve determined under Federally prescribed rules. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

Special rules are provided in the case of a variable contract. Under these rules, the reserve for a variable contract is adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying a variable contract is adjusted for appreciation or depreciation to the extent the reserve is adjusted.

A variable contract generally is defined as any annuity or life insurance contract (1) that provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset accounts of the company, and (2) under which, in the case of an annuity contract, the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account, or, in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account. A pension plan contract that is not a life, accident, or health, property, casualty, or liability insurance contract is treated as an annuity contract for purposes of this definition.

House bill

No provision.

Senate amendment

The Senate amendment provides that a variable contract is to include a contract that provides for the funding of group term life or group accident and health insurance on retired lives if: (1) the contract provides for the allocation of all or part of the amounts received under the contract to an account that is segregated from the general asset account of the company; and (2) the amounts paid in, or the amounts paid out, under the contract reflect the investment return and the market value of the segregated asset account underlying the contract.

Thus, the reserve for such a contract is to be adjusted by (1) subtracting any amount that has been added to the reserve by reason of appreciation in the value of assets underlying such contract, and (2) adding any amount that has been subtracted from the reserve by reason of depreciation in the value of assets underlying such contract. In addition, the basis of each asset underlying the contract is to be adjusted for appreciation or depreciation to the extent that the reserve is adjusted.

Effective date.—The provision applies to taxable years beginning after December 31, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

14. TREATMENT OF MODIFIED GUARANTEED CONTRACTS

Present law

Life insurance companies are allowed a deduction for any net increase in reserves and are required to include in income any net decrease in reserves. The reserve of a life insurance company for any contract is the greater of the net surrender value of the contract or the reserve determined under Federally prescribed rules. The net surrender value of a contract is the cash surrender value reduced by any surrender penalty, except that any market value adjustment required on surrender is not taken into account. In no event, however, may the amount of the reserve for tax purposes for any contract at any time exceed the amount of the reserve for annual statement purposes.

In general, assets held for investment are treated as capital assets. Any gain or loss from the sale or exchange of a capital asset is treated as a capital gain or loss and is taken into account for the taxable year in which the asset is sold or exchanged.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement generally applies a mark-to-market regime to assets held as part of a segregated account under a modified guaranteed contract issued by a life insurance company. Gain or loss with respect to such assets held as of the close of any taxable year are taken into account for that year (even though the assets have not been sold or exchanged),[58] and are treated as ordinary. If gain or loss is taken into account by reason of the mark-to-market requirement, then the amount of gain or loss subsequently realized as a result of sale, exchange, or other disposition of the asset, or as a result of the application of the mark-to-market requirement is appropriately adjusted to reflect such gain or loss. In addition, the reserve for a modified guaranteed contract is determined by taking into account the market value adjustment required on surrender of the contract.

A modified guaranteed contract is defined as any life insurance contract, annuity contract or pension plan contract[59] that is not a variable contract (within the meaning of Code section 817), and that satisfies the following requirements. All or part of the amounts received under the contract must be 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 by reference to market values.

The reserves for the contract must be valued at market for annual statement purposes and the Federally prescribed reserve for the contract under section 807(d)(2) must be valued at market. Further, a modified guaranteed contract includes only a contract that provides either for a net surrender value or for a policyholder's fund (within the meaning of section 807(e)(1)). It is intended that a policyholder's fund be more than de minimis. For example, Treasury regulations could provide that a policyholder's fund that represents 15 percent or less of the insurer's reserve for the contract under section 807, and that is attributable to employee contributions, would be considered de minimis.

If only a portion of the contract is not described in section 817, that portion is treated as a separate contract for purposes of the provision.

The Treasury Department is authorized to issue regulations that provide for the application of the mark-to-market requirement at times other than the close of a taxable year or the last business day of a taxable year. The Treasury Department is also authorized to issue such regulations as may be necessary or appropriate to carry out the purposes of the provision and to provide for treatment of modified guaranteed contracts under sections 72, 7702, and 7702A. In addition, the Treasury Department is authorized to determine the interest rates applicable under section 807(c)(3), 807(d)(2)(B) and 812 with respect to modified guaranteed contracts annually, calculating such rates as appropriate for modified guaranteed contracts. The Treasury Department has discretion to determine an appropriate rate that is a current market rate, which could be determined, for example, either by using a rate that is appropriate for the obligations under the contract to which the reserve relates, or by taking into account the yield on the assets underlying the contract. The Treasury Department may exercise this authority by issuing a periodic announcement of the appropriate market interest rates or formula for determining such rates. The Treasury Department is also authorized, to the extent appropriate for such a contract, to modify or waive section 811(d).

The Treasury Department is also authorized to provide rules limiting the ordinary treatment provided under the provision to gain or loss on those assets properly taken into account in calculating the reserve for Federal tax purposes (and necessary to support such reserves) for modified guaranteed contracts, and to provide rules for limiting such treatment with respect to other assets (such as assets representing surplus of the company). Particular concern has been expressed about characterization of gain or loss as ordinary under the provision in transactions that would otherwise either (1) have to meet the requirements of the hedging exception to the straddle rules to receive this treatment, or (2) by treated as capital transactions under present law. It is intended that the mark-to-market treatment apply to all assets held as part of a segregated account established under the provision, even though ordinary treatment may not apply (pursuant to Treasury regulatory authority) to assets held as part of the segregated account that are not necessary to support the reserve for modified guaranteed contracts.

The conference agreement authorizes the Treasury Department to prescribe regulations that provide for the treatment of assets transferred to or from a segregated account. This regulatory authority is provided because of concern that taxpayers may exercise selective ordinary loss (or income or gain) recognition by virtue of the ordinary treatment under the provision. One example of selective ordinary loss recognition could arise if assets are always marked to market when transferred out of the segregated account. For example, if at the beginning of the taxable year an asset in the segregated account is worth $1,000, but declines to $900 in July, the taxpayer might choose to recognize $100 of ordinary loss while continuing to own the asset, simply by transferring it out of the segregated account in July and replacing $1,000 of cash (for example) in the segregated account.

It is intended that the regulations relating to asset transfers will forestall opportunities for selective recognition of ordinary items. Prior to the issuance of these regulations, the following rules shall apply.

If an asset is transferred to a segregated account, gain or loss attributable to the period during which the asset was not in the

[58] The wash sale rules of section 1091 of the Code are not to apply to any loss that is required to be taken into account solely by reason of the mark-to-market requirement.

[59] The provision applies only to a pension plan contract that is not a life, accident or health, property, casualty, or liability contract.

segregated account is taken into account when the asset is actually sold, and retains the character (as ordinary or capital) properly attributable to that period. Appropriate adjustments are made to the basis of the asset to reflect gain or loss attributable to that period.

If an asset is transferred out of a segregated account, the transfer is deemed to occur on the last business day of the taxable year and gain or loss with respect to the transferred asset is taken into account as of that day. Loss with respect to such transferred asset is treated as ordinary to the extent of the lesser of (1) the loss (if any) that would have been recognized if the asset had been sold for its fair market value on the last business day of the taxable year (or the date the asset was actually sold by the taxpayer, if earlier) or (2) the loss (if any) that would have been recognized if the asset had been sold for its fair market value on the date of the transfer. A similar rule applies for gains. Proper adjustment is made in the amount of any gain or loss subsequently realized to reflect gain or loss under the provision.

For example, assume that a capital asset in the segregated account that is worth $1,000 at the beginning of the year is transferred out of the segregated account in July at a value of $900, is retained by the company and is worth $950 on the last business day of the taxable year. A $50 ordinary loss is taken into account with respect to the asset for the taxable year (the difference Between $1,000 and $950). The asset is not marked to market in any subsequent year under the provision, provide that it is not transferred back to the segregated account.

As an additional example, assume that a capital asset in the segregated account that is worth $1,000 at the beginning of the year is transferred out of the segregated accounted in July at a value of $900, is retained by the company and continues to decline in value to $850 on the last business day of the taxable year. A $100 ordinary loss ($1,000 less $900) and a $50 capital loss ($900 less $850) is taken into account with respect to the asset for the taxable year.

Effective date.—The provision applies to taxable years beginning after December 31, 1995. A taxpayer that is required to (1) change its calculation of reserves to take into account market value adjustments and (2) mark to market its segregated assets in order to comply with the requirements of the provision is treated as having initiated changes in methods of accounting and as having received the consent of the Treasury Department to make such changes.

Except as otherwise provided in special rules (described below), the section 481(a) adjustments required by reason of the changes in method of accounting are to be taken into account as ordinary income for the taxpayer's first taxable year beginning after December 31, 1995.

Special rules providing for a seven-year spread apply in the case of certain losses (if any), and in the case of certain reserve increases (if any), in order to limit selective loss recognition or selective minimization of gain recognition. Thus, the seven-year spread rule applies when the taxpayer's section 481(a) adjustment is negative.

First, if, for the taxpayer's first taxable year beginning after December 31, 1995, (1) the aggregate amount of the loss recognized by reason of the change in method of accounting with respect to segregated assets under modified guaranteed contracts (i.e., the switch to a mark-to-market regime for such assets) exceeds (2) the amount include in income by reason of the change in method of accounting with respect to reserves (i.e., the change permitting a market value adjustment to be taken into account with respect to a modified guaranteed contract), then the excess is not allowed as a deduction in the taxpayer's first taxable year beginning after December 31, 1995. Rather, such excess is allowed ratably over the period of seven taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995. The adjusted basis of each such segregated asset is nevertheless determined as if such losses were realized in the taxpayer's first taxable year beginning after December 31, 1995.

Second, if, for the taxpayer's first taxable year beginning after December 31, 1995, (1) the aggregate amount the taxpayer's deduction that arises by reason of the change in method of accounting with respect to reserves (i.e., the change permitting a market value adjustment to be taken into account with respect to a modified guaranteed contract), exceeds (2) the aggregate amount of the gain recognized by reason of the change in method of accounting with respect to segregated assets under modified guaranteed contracts (i.e., the switch to a mark-to-market regime for such assets), then the excess is not allowed as a deduction in the taxpayer's first taxable year beginning after December 31, 1995. Rather, such excess is allowed ratably over the period of seven taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1995.

15. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION FOR WATER UTILITIES

(Sec. 1611(a) of the Senate amendment.)

Present and prior law

The gross income of a corporation does not include contributions to its capital. A contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

Prior to the enactment of the Tax Reform Act of 1986 ("1986 Act"), a regulated public utility that provided electric energy, gas water, or sewage disposal services was allowed to treat any amount of money or property received from any person as a tax-free contribution to its capital so long as such amount: (1) was a contribution in aid of construction; and (2) was not included in the taxpayer's rate base for rate-making purposes. A contribution in aid of construction did not include a connection fee. The basis of any property acquired with a contribution in aid of construction was zero.

If the contribution was in property other than electric energy, gas, steam, water, or sewerage disposal facilities, such contribution was not includible in the utility's gross income so long as: (1) an amount at least equal to the amount of the contribution was expended for the acquisition or construction of tangible property that was used predominantly in the trade or business of furnishing utility services; (2) the expenditure occurred before the end of the second taxable year after the year that the contribution was received; and (3) certain records were kept with respect to the contribution and the expenditure. In addition, the status of limitations for the assessment of deficiencies was extended in the case of these contributions.

These rules were repealed by the 1986 Act. Thus, after the 1986 Act, the receipt by a utility of a contribution in aid of construction is includible in the gross income of the utility, and the basis of property received or constructed pursuant to the contribution is not reduced.

House bill

No. provision.

Senate amendment

The Senate amendment restores the contributions in aid of construction provisions that were repealed by the 1986 Act for regulated public utilities that provide water or sewerage disposal services.

Effective date.—The provision is effective for amounts received after June 12, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

16. REQUIRE WATER UTILITY PROPERTY TO BE DEPRECIATED OVER 25 YEARS

(Sec. 1611(b) of the Senate amendment.)

Present law

Property used by a water utility in the gathering, treatment, and commercial distribution of water and municipal sewers are depreciated over a 20-year period for regular tax purposes. The depreciation method generally applicable to property with a recovery period of 20 years is the 150-percent declining balance method (switching to the straight-line method in the year that maximizes the depreciation deduction). The straight-line method applies to property with a recovery period over 20 years.

House bill

No provision.

Senate amendment

The Senate amendment provides that water utility property will be depreciated using a 25-year recovery period and the straight-line method for regular tax purposes. For this purpose, "water utility property" means (1) property that is an integral part of the gathering, treatment, or commercial distribution of water, and that, without regard to the proposal, would have had a recovery period of 20 years and (2) any municipal sewer. Such property generally is described in Asset Classes 49.3 and 51 of Revenue Procedure 87–56, 1987–2 C.B. 674. The Senate amendment does not change the class lives of water utility property for purposes of the alternative depreciation system of section 168(g).

Effective date.—The provision is effective for property placed in service after June 12, 1996, other than property placed in service pursuant to a binding contract in effect before June 10, 1996, and at all times thereafter before the property is placed in service.

Conference agreement

The conference agreement follows the Senate amendment.

17. ALLOW CONVERSION OF SCHOLARSHIP FUNDING CORPORATION TO TAXABLE CORPORATION

(Sec. 1621 of the Senate amendment.)

Present law

Qualified scholarship funding corporations are nonprofit corporations established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965 (sec. 150(d)). In addition, a qualified scholarship funding corporation must be required by its corporate charter and bylaws, or under State law, to devote any income (after payment of expenses, debt service and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States.

In general, State and local government bonds issued to finance private loans (e.g.,

student loans) are taxable private activity bonds. However, interest on qualified student loan bonds is tax-exempt. Qualified scholarship funding corporations are eligible issuers of qualified student loan bonds.

The Internal Revenue Code restricts the direct and indirect investment of bond proceeds in higher yielding investments and requires that profits on investments that are unrelated to the government purpose for which the bonds are issued be rebated to the United States. Special allowance payments (SAP) made by the Department of Education are treated as interest on notes and, therefore, are permitted arbitrage that need not be rebated to the United States.

Generally, a private foundation and disqualified persons may, in the aggregate, own 20 percent of the voting stock of a functionally unrelated corporation.

House bill

No provision.

Senate amendment

In general.—The amendment would provide that a nonprofit student loan funding corporation may elect to cease its status as a qualified scholarship funding corporation. If the corporation meets the requirements outlined below, such an election would not cause any bond outstanding as of the date of the issuer's election and any bond issued to refund such a bond to fail to be a qualified student loan bond. Once made, an election could be revoked only with the consent of the Secretary of the Treasury. After making the election, the issuer would not be authorized to issue any new bonds.

Requirements.—First, upon making the election, the issuer would be required to transfer all of the student loan notes to another, taxable, corporation in exchange for senior stock of such corporation within a reasonable period of time after the election is made. Immediately after the transfer, the issuer, and any other issuer who made the election, would be required to hold all of the senior stock of the corporation. Senior stock is stock whose rights to dividends, liquidation or redemption rights are not inferior to those of any other class of stock and that (1) participates pro rata and fully in the equity value of any other common stock of the corporation, (2) has the right to payments receivable in liquidation prior to any other stock in the corporation, (3) upon liquidation or redemption, has a fixed right to receive the greater of (a) the fair market value of the stock at the date of liquidation or redemption or (b) the net fair market value of all assets transferred to the corporation by the issuer, and (4) has a right to require its redemption by a date which is not later than 10 years after the date that the election is made.

Second, the transferee corporation would be required to assume or otherwise provide for the payment of all the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election.

Third, immediately after the transfer, the issuer (i.e., the nonprofit student loan funding corporation) would be required to become a charitable organization (described in section 501(c)(3) that is exempt from tax under section 501(a)), at least 80 percent of the members of its board of directors must be independent members, and it must hold all of the senior stock of the corporation.

Excess business holdings.—For purposes of the excess business holding restrictions imposed on a private foundation, the charity would not be required to divest its ownership in a corporation most of whose assets are student loan notes incurred under the Higher Education Act of 1965.

Effective date.—The amendment would be effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

18. APPLY MATHEMATICAL OR CLERICAL ERROR PROCEDURES FOR DEPENDENCY EXEMPTIONS AND FILING STATUS WHEN CORRECT TAXPAYER IDENTIFICATION NUMBERS ARE NOT PROVIDED

(Sec. 1613 of the Senate amendment.)

Present law

In general

Individuals who claim personal exemptions for dependents must include on their tax return the name and taxpayer identification number (TIN) of each dependent. For returns filed with respect to tax year 1996, individuals must provide a TIN for all dependents born on or before November 30, 1996. For returns filed with respect to tax year 1997 and all subsequent years, individuals must provide TINs for all dependents, regardless of their age. An individual's TIN is generally that individual's social security number.

If the individual fails to provide a correct TIN for a dependent, the Internal revenue Service may impose a $50 penalty.

Mathematical or clerical errors

The IRS may summarily assess additional tax due as a result of a mathematical or clerical error without sending the taxpayer a notice of deficiency and giving the taxpayer an opportunity to petition the Tax Court. Where the IRS uses the summary assessment procedure for mathematical or clerical errors, the taxpayer must be given an explanation of the asserted error and a period of 60 days to request that the IRS abate its assessments. The IRS may not proceed to collect the amount of the assessment until the taxpayer has agreed to it or has allowed the 60-day period for objecting to expire. If the taxpayer files a request for abatement of the assessment specified in the notice, the IRS must abate the assessment. Any reassessment of the abated amount is subject to the ordinary deficiency procedures. The request for abatement of the assessment is the only procedure a taxpayer may use prior to paying the assessed amount in order to contest an assessment arising out of a mathematical or clerical error. Once the assessment is satisfied, however, the taxpayer may file a claim for refund if he or she believes the assessment was made in error.

House bill

No provision.

Senate amendment

If an individual fails to provide a correct TIN for a dependent, the IRS is authorized to deny the dependency exemption. Such a change also has indirect consequences for other tax benefits currently conditioned on being able to claim a dependency exemption (e.g., head of household filing status and the dependent care credit). In addition, the failure to provide a correct TIN for a dependent will be treated as a mathematical or clerical error and thus any notification that the taxpayer owes additional tax because of that failure will not be treated as a notice of deficiency.

Effective date.—The provision is effective for tax returns for which the due date (without regard to extensions) is 30 days or more after the date of enactment. For taxable years beginning in 1995, no requirement to obtain a TIN applies in the case of dependents born after October 31, 1995. For taxable years beginning in 1996, no requirement to obtain a TIN applies in the case of dependents born after November 30, 1996.

Conference agreement

The conference agreement follows the Senate amendment.

19. TREATMENT OF FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS ("FASITS")

(Sec. 1621 of the Senate amendment.)

Present law

An individual can own income-producing assets directly, or indirectly through an entity (i.e., a corporation, partnership, or trust). Where an individual owns assets through an entity (e.g., a corporation), the nature of the interest in the entity (e.g., stock of a corporation) is different than the nature of the assets held by the entity (e.g., assets of the corporation).

Securitization is the process of converting one type of asset into another and generally involves the use of an entity separate from the underlying assets. In the case of securitization of debt instruments, the instruments created in the securitization typically have different maturities and characteristics than the debt instruments that are securitized.

Entities used in securitization include entities that are subject to tax (e.g., a corporation), conduit entities that generally are not subject to tax (e.g., a partnership, grantor trust, or real estate mortgage investment conduit ("REMIC")), or partial-conduit entities that generally are subject to tax only to the extent income is not distributed to owners (e.g., a trust, real estate investment trust ("REIT"), or regulated investment company ("RIC")).

There is no statutory entity that facilitates the securitization of revolving, nonmortgage debt obligations.

House bill

No provision.

Senate amendment

In general

The Senate amendment would create a new type of statutory entity called a "financial asset securitization investment trust" ("FASIT") that facilitates the securitization of debt obligations such as credit card receivables, home equity loans, and auto loans. A FASIT generally will not be taxable; the FASIT's taxable income or net loss will flow through to the owner of the FASIT.

The ownership interest of a FASIT generally will be required to be entirely held by a single domestic C corporation. The Finance Committee expected that the Treasury Department will issue guidance on how this rule would apply to cases in which the entity that owns the FASIT joins in the filing of a consolidated return with other members of the group that wish to hold an ownership interest in the FASIT. In addition, a FASIT generally may hold only qualified debt obligations, and certain other specified assets, and will be subject to certain restrictions on its activities. An entity that qualifies as a FASIT can issue instruments that meet certain specified requirements and treat those instruments as debt for Federal income tax purposes. Instruments issued by a FASIT bearing yields to maturity over five percentage points above the yield to maturity on specified United States government obligations (i.e., "high-yield interests") must be held, directly or indirectly, only by domestic C corporations that are not exempt from income tax.

Qualification as a FASIT

In general.—To qualify as a FASIT, an entity must: (1) make an election to be treated as a FASIT for the year of the election and all subsequent years; (2) have assets substantially all of which (including assets that the FASIT is treated as owning because they support regular interests) are specified types called "permitted assets;" (3) have non-ownership interests be certain specified types of debt instruments called "regular interests"; (4) have a single ownership interest which is held by an "eligible holder"; and (5) not qualify as a RIC. Any entity, including a corporation, partnership, or trust may be treated as a FASIT. In addition, a segregated pool of assets may qualify as a FASIT.

Election to be a FASIT.—Once an election to be a FASIT is made, the election applies from the date specified in the election and all subsequent years until the entity ceases to be a FASIT. The manner of making the election to be a FASIT is to determined by the Secretary of the Treasury. If an election to be a FASIT is made after the initial year of an entity, all of the assets in the entity at the time of the FASIT election are deemed contributed to the FASIT at that time and, accordingly, any gain (but not loss) on such assets will be recognized at that time.[60]

Ceasing to be a FASIT.—Once an entity ceases to be a FASIT, it is not a FASIT for that year or any subsequent year. Nonetheless, an entity can continue to be a FASIT where the Treasury Department determines that the entity inadvertently ceases to be a FASIT, steps are taken reasonably soon after it is discovered that the entity ceased being a FASIT so that it again qualifies as a FASIT, and the FASIT and its owner take those steps that the Treasury Department deems necessary. An entity will cease qualifying as a FASIT if the entity's owner ceases being an eligible corporation. Loss of FASIT status is to be treated as if all of the regular interests of the FASIT were retired and then reissued without the application of the rule which deems regular interests of a FASIT to be debt. The Finance Committee understood that this treatment could result in the creation of cancellation of indebtedness income where the new instruments deemed to be issued are treated as stock under general tax principles.

Permitted assets. In general.—For an entity or arrangement to qualify as a FASIT, substantially all of its assets must consist of the following "permitted assets": (1) cash and cash equivalents; (2) certain permitted debt instruments; (3) certain foreclosure property; (4) certain instruments or contracts that represent a hedge or guarantee of debt held or issued by the FASIT; (5) contract rights to acquire permitted debt instruments or hedges; and (6) a regular interest in another FASIT. A FASIT must meet the asset test at the 90th day after its formation and at all times thereafter. Permitted assets may be acquired at any time by a FASIT, including any time after its formation.

Permitted debt instruments.—A debt instrument will be a permitted asset only if the instrument is indebtedness for Federal income tax purposes including trade receivables, regular interests in a real estate mortgage investment conduit (REMIC), or regular interests issued by another FASIT and it bears (1) fixed interest or (2) variable interest of a type that relates to qualified variable rate debt (as defined in Treasury regulations prescribed under sec. 860G(a)(1)(B)). Except for cash equivalents, permitted debt obligations cannot be obligations issued, directly or indirectly, by the owner of the FASIT or a related person.

Foreclosure property.—Permitted assets include property acquired on default (or imminent default) of debt instruments, swap contracts, forward contracts, or similar contracts held by the FASIT that would be foreclosure property to a REIT (under sec. 856(e)) if the property that was acquired by foreclosure by the FASIT was real property or would be foreclosure property to a REIT but for certain leases entered into or construction performed (as described in sec. 856(e)(4)) while held by the FASIT.

Hedges.—Permitted assets include interest rate or foreign currency notional principal contracts, letters of credit, insurance, guarantees against payment defaults, notional principal contracts that are "in the money," or other similar instruments as permitted under Treasury regulations, which are reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor of regular interests. An instrument is a hedge if it results in risk reduction as described in Treasury regulation section 1.1221-2.

"Regular interests" of a FASIT.—Under the Senate amendment, "regular interests" of a FASIT, including "high-yield interests," are treated as debt for Federal income tax purposes regardless of whether instruments with similar terms issued by non-FASITs might be characterized as equity under general tax principles. To be treated as a "regular interest," an instrument must have fixed terms and must: (1) unconditionally entitle the holder to receive a specified principal amount; (2) pay interest that is based on (a) one or more rates that are fixed, (b) rates that measure contemporaneous variations in the cost of newly borrowed funds,[61] or (c) to the extent permitted by Treasury regulations, variable rates allowed to regular interests of a REMIC if the FASIT would otherwise qualify as a REMIC; (3) have a term to maturity of no more than 30 years, except as permitted by Treasury regulations; (4) be issued to the public with a premium of not more than 25 percent of its stated principal amount; and (5) have a yield to maturity determined on the date of issue of no more than five percentage points above the applicable Federal rate (AFR) for the calendar month in which the instrument is issued.

A FASIT also may issue high-yield debt instruments, which includes any debt instrument issued by a FASIT that meets the second and third conditions described above, so long as such interests are not held by a disqualified holder. A "disqualified holder" generally is any holder other than (1) a domestic C corporation that does not qualify as a RIC, REIT, REMIC, or cooperative[62] or (2) a dealer who acquires FASIT debt for resale to customers in the ordinary course of business. An excise tax is imposed at the highest corporate rate on a dealer if there is a change in dealer status or if the holding of the instrument is for investment purposes. A 31-day grace period is granted before ownership of an interest held by a dealer generally could be treated as held by the FASIT owner for investment purposes.

Permitted ownership holder.—A permitted holder of the ownership interest in a FASIT generally is a non-exempt domestic C corporation, other than a corporation that qualifies as a RIC, REIT, REMIC, or cooperative.

Transfers to non-permitted holders of high-yield interests

A transfer of a high-yield interest to a disqualified holder is to be ignored for Federal income tax purposes. Thus, such a transferor will continue to be liable for any taxes due with respect to the transferred interest.

Taxation of a FASIT

In general.—A FASIT generally is not subject to tax. Instead, all of the FASIT's assets and liabilities are treated as assets and liabilities of the FASIT's owner and any income, gain, deduction or loss of the FASIT is allocable directly to its owner. Accordingly, income tax rules applicable to a FASIT (e.g., related party rules, sec. 871(h), sec. 165(g)(2)) are to be applied in the same manner as they apply to the FASIT's owner. Any securities held by the FASIT that are treated as held by its owner are treated as held for investment. The taxable income of a FASIT is calculated using an accrual method of accounting. The constant yield method and principles that apply for purposes of determining OID accrual on debt obligations whose principal is subject to acceleration apply to all debt obligations held by a FASIT to calculate the FASIT's interest and discount income and premium deductions or adjustments. For this purpose, a FASIT's income does not include any income subject to the 100-percent penalty excise tax on prohibited transactions.

Income from prohibited transactions..—The owner of a FASIT is required to pay a penalty excise tax equal to 100 percent of net income derived from (1) an asset that is not a permitted asset, (2) any disposition of an asset other than a permitted disposition, (3) any income attributable to loans originated by the FASIT, and (4) compensation for services (other than fees for a waiver, amendment, or consent under permitted assets not acquired through foreclosure). A permitted disposition is any disposition of any permitted asset (1) arising from complete liquidation of a class of regular interests (i.e., a qualified liquidation[63]), (2) incident to the foreclosure, default, or imminent default of the asset, (3) incident to the bankruptcy or insolvency of the FASIT, (4) necessary to avoid a default on any indebtedness of the FASIT attributable to a default (or imminent default) on an asset of the FASIT, (5) to facilitate a clean-up call, (6) to substitute a permitted debt instrument for another such instrument, or (7) in order to reduce overcollateralization where a principal purpose of the disposition was not to avoid recognition of gain arising from an increase in its market value after its acquisition by the FASIT. Notwithstanding this rule, the owner of a FASIT may currently deduct its losses incurred in prohibited transactions in computing its taxable income for the year of the loss.

Taxation of interests in the FASIT

Taxation of holders of regular interests.—In general.—A holder of a regular interest, including a high-yield interest, is taxed in the

[60] The Senate amendment provided transitional relief under which gain in pre-effective date entities that make a FASIT election may be deferred.

[61] Variable interest rates that would meet this standard include variable interest rates described in Treasury Income Tax Regulations 1.860G-1(a)(3).

[62] The Senate amendment treats cooperatives as disqualified holders since cooperatives, like RICs and REITs, are treated as pass-through entities and, also like the owners of RICs and REITs, the cooperative's members and patrons need not be C corporations.

[63] for this purpose, a "qualified liquidation" has the same meaning as it does purposes of the exemption from the tax on prohibited transactions of a REMIC in section 860F(a)(4).

same manner as a holder of any other debt instrument, except that the regular interest holder is required to account for income relating to the interest on an accrual method of accounting, regardless of the method of accounting otherwise used by the holder.[64]

High-yield interests.—Holders of high-yield interests are not allowed to use net operating losses to offset any income derived from the high-yield debt. Any net operating loss carryover shall be computed by disregarding any income arising by reason of the disallowed loss.

In addition, a transfer of a high-yield interest to a disqualified holder is not recognized for Federal income tax purposes such that the transferor will continue to be taxed on the income from the high-yield interest unless the transferee provides the transferor with an affidavit that the transferee is not a disqualified person or the Treasury Secretary determines that the high-yield interest is no longer held by a disqualified person and a corporate tax has been paid on the income from the high-yield interest while it was held by a disqualified person.[65] High-yield interests may be held without a corporate tax being imposed on the income from the high-yield interest where the interest is held by a dealer in securities who acquired such high-yield interest for sale in the ordinary course of his business as a securities dealer. In such a case, a corporate tax is imposed on such a dealer if his reason for holding the high-yield interest changes to investment. There is a presumption that the dealer has not changed his intent for holding high-yield instruments to investment for the first 31 days he holds such interests unless such holding is part of a plan to avoid the restriction on holding of high-yield interests by disqualified persons.

Where a pass-through entity (other than a FASIT) issues either debt or equity instruments that are secured by regular interests in a FASIT and such instruments bear a yield to maturity greater than the yield on the regular iterests and the applicable Federal rate plus five percentage points (determined on date that the pass-through entity acquires the regular interests in the FASIT) and the pass-through entity issued such debt or equity with a principal purpose of avoiding the rule that high-yield interests be held by corporations, then an excise tax is imposed on the pass-through entity at a rate equal to the highest corporate rate on the income of any holder of such instrument attributable to the regular interests.

Taxation of holder of ownership interest.—All of the FASIT's assets and liabilities are treated as assets and liabilities of the holder of a FASIT ownership interest and that owner takes into account all of the FASIT's income, gain, deduction, or loss in computing its taxable income or net loss for the taxable year. The character of the income to the holder of an ownership interest is the same as its character to the FASIT, except tax-exempt interest is taken into income of the holder as ordinary income.[66]

Losses on assets contributed to the FASIT are not allowed upon their contribution, but may be allowed to the FASIT owner upon their disposition by the FASIT. A special rule provides that the holder of a FASIT ownership interest cannot offset income or gain from the FASIT ownership interest with any other losses. Any net operating loss carryover of the FASIT owner shall be computed by disregarding any income arising by reason arising by reason of a disallowed loss.

For purposes of the alternative minimum tax, the owner's taxable income is determined without regard to the minimum FASIT income. The alternative minimum taxable income of the FASIT owner cannot be less than the FASIT income for that year, and the alternative minimum tax net operating loss deduction is computed without regard to the minimum FASIT income.

Transfers to FASITs

Gain generally is recognized immediately by the owner of the FASIT upon the transfer of assets to a FASIT. Assets that are acquired by the FASIT from someone other than its owner are treated as if they were acquired by the owner and then contributed to the FASIT. In addition, any assets of the FASIT owner or a related person that are used to support[67] FASIT regular interests are treated as contributed to the FASIT and, thus, any gain on any such assets also will be recognized at the earliest date that such assets support any FASIT's regular interests.[68] To the extent provided by Treasury regulations, gain recognition on the contributed assets may be deferred until such assets support regular interests issued by the FASIT or any indebtedness of the owner or related person. These regulations my adjust other statutory FASIT provisions to the extent such provisions are inconsistent with such regulations. For example, such regulations may disqualify certain assets as permitted assets. The basis of any FASIT assets is increased by the amount of the taxable gain recognized on the contribution of the assets to the FASIT.

Valuation rules

In general, except in the case of debt instruments, the value of FASIT assets is their fair market value. In the case of debt instruments that are traded on an established securities market, then the market price will be used for purposes of determining the amount of gain realized upon contribution of such assets to a FASIT. Nonetheless, the Senate amendment contained special rules for valuing other debt instruments for purposes of computing gain on the transfer to a FASIT. Under these rules, the value of such debt instruments is the sum of the present values of the reasonably expected cash flows from such obligations discounted over the weighted average life of such assets. The discount rate is 120 percent of the applicable Federal rate, compounded semiannually, or such other rate that the Treasury Secretary shall prescribe by regulations. For purposes of determining the value of a pool of revolving loan accounts having substantially the same terms, each extension of credit (other than the accrual of interest) is treated as a separate debt instrument and the maturity of the instruments is determined using the reasonably anticipated periodic payment rate at which principal payments will be made as a proportion of their aggregate outstanding principal assuming that payments are applied to the earliest credit extensions. The Finance Committee understood that reasonably expected cash flows from loans will reflect nonpayment (i.e., losses), early payments (i.e., prepayments), and reasonable costs of servicing the loans. This value shall be used in determining the amount of gain realized upon the contribution of assets to a FASIT even though that value may be different than the value of such assets would be applying a willing buyer/willing seller standard.

Related person

For purposes of the FASIT rules, a person is related to another person if that person bears a relationship to the other person specified in sections 267(b) or 707(b)(1), using a 20-percent ownership test instead of the 50-percent test, or such persons are engaged in trades or businesses under common control as determined under sections 52(a) or (b).

Related amendments

For purposes of the wash sale rule (sec. 1091), an ownership interest of a FASIT is treated as a "security." In addition, an ownership interest in a FASIT and a residual interest in a pool of debt obligations that are substantially similar to the debt obligations in the FASIT shall be treated as "substantially identical stock or securities". Finally, the wash sale period begins six months before, and ends six months after, the sale of the ownership interest of the FASIT.

Effective date

The Senate amendment would take effect on the date of enactment. The Senate amendment provided a special transition rule for entities (e.g., a trust whose interests are taxed like a partnership) that were in existence on June 10, 1996, that subsequently elect to be a FASIT (called a "pre-effective date FASIT"). Under the special transitional rule, gain is not recognized on property contributed, or deemed contributed, to the FASIT to the extent that any such property is allocable to interests issued by a "pre-effective date FASIT" (called a "pre-FASIT interest"). The portion of such property that is allocable to pre-FASIT interests is to be determined by the Treasury Secretary, except that the property of the entity allocable to "pre-FASIT interests" shall not be less than 107 percent of the aggregate principal amounts of outstanding "pre-FASIT interests."

Conference agreement

The conference agreement follows the Senate amendment with the following changes and clarifications:

The conference agreement modifies the rule under which property that is acquired by a FASIT from someone other than the FASIT's owner or a person related to the FASIT's owner is treated as being first acquired by the FASIT's owner who then transfers that asset to the FASIT. The conference modification would clarify that the deemed acquisition by the FASIT's owner would be for the FASIT's cost in acquiring that asset from the non-owner or related person.

The conference agreement makes a technical modification to the rule which deems gain to be recognized on assets held by the owner of the FASIT or a related person that support any regular interest of the FASIT to clarify that the gain will be deemed realized

[64] Regular interests in a FASIT 95 percent or more of whose assets are real estate mortgages are treated as real estate assets where relevant (e.g., secs. 856, 593, 7701(a)(19)).

[65] Under this rule, no high-yield interests will be treated as issued where the FASIT directly issues such interests to a disqualified holder.

[66] Ownership interests in a FASIT 95 percent or more of whose assets are real estate mortgages are treated as real estate assets where relevant (e.g., secs. 856, 593, 7701(a)(19)).

[67] For this purpose, supporting assets includes any assets that are reasonably expected to directly or indirectly pay regular interests or to otherwise secure or collateralize regular interests. In the case where there is a commitment to make additional contributions to a FASIT, any such assets will not be treated as supporting the FASIT until they are transferred to the FASIT or set aside for such use.

[68] In the case of a securities dealer which may be an eligible holder, the Finance Committee understood that the mark-to-market rule of section 475 will not apply to an ownership interest in a FASIT or assets held in the FASIT.

to the related person when the assets which support a regular interest in the FASIT is held by that related person.

The conference agreement clarifies that the taxable income of the holder of the ownership interest or a high-yield interest, that may not be offset by non-FASIT losses, includes gain and loss from the sale of the ownership interest or high-yield interest. In addition, the conference agreement coordinates the rule that limits a taxpayer's ability to offset REMIC excess inclusion income against net operating losses with this similar rule under the FASIT provisions.

The conference agreement provides that the taxable income of a holder of a FASIT ownership interest cannot be less than the taxable income with respect to the FASIT interest applies to any consolidated group of corporations of which the holder is a member as if the group were a single taxpayer.

The conference agreement makes a technical modification to the wording of a waiver of the rule that treats transfers of high-yield interest to disqualified persons as being ineffective such that the income for such high-yield interests will remain includable in the gross income of the transferor in computing its tax.

The conference agreement limits the rule of the Senate amendment that imposes a corporate tax on a pass-thru entity that issues a debt or equity interest that is supported by a regular interest in a FASIT and has high yield to cases where a principal purpose of such arrangement is the avoidance of the restriction that high-yield interests be held only by qualified holders.

The conference agreement modifies the rule of the Senate amendment which deals with terminations of a FASIT to provide that such terminations become effective on the date of the termination, instead of the beginning of the FASIT's taxable year in which the termination occurs.

The conference agreement provides that an asset which was a permitted asset at the time that it was acquired by the FASIT shall not be treated as an interest in the FASIT, except to the extent provided by regulation issued by the Treasury Secretary. Thus, an instrument acquired by the FASIT as a hedge (e.g., an interest rate swap) will not later become an interest in the FASIT when there is later an obligation by the FASIT to make payments to the counterparty under that hedge instrument.

The conference agreement clarifies that a FASIT may issue regular instruments with fixed rates or, except as provided by regulations issued by Treasury Secretary, variable rates permitted to be issued by real estate mortgage investment conduits ("REMICs").

The conference agreement clarifies that "interest-only instruments" ("IOs") may be issued by a FASIT as high-yield instruments if the instrument makes payments which consist of a specified portion of the interest payments in permitted assets and that portion does not vary throughout the life of that instrument.

The conference agreement clarifies that foreclosure property, which may be permitted asset of a FASIT, includes property acquired by foreclosure even though the acquired property is not real property. The conference agreement also grants the Treasury Secretary the power to reduce by regulations the two-year period that foreclosure property may be held as a permitted asset of the FASIT.

The conference agreement clarifies the application of section 475 to a securities dealer that holds an ownership interest in a FASIT. Under this clarification, except as provided in Treasury regulations, if section 475 applies to securities before their transfer to the FASIT, section 475 will continue to apply to securities that have been transferred (or deemed transferred) to the FASIT, except that the amount realized under the mark-to-market rule of section 475 shall be the greater of the securities' value under present law or their value determined under the special valuation rules applicable to FASITs.

The conference agreement deletes in technical amendments the rules that treat an ownership interests in a FASIT (a) as a noncapital asset of a bank or (b) as a permitted asset of a real estate investment trust ("REIT").

The conference agreement provides that a regular interest, but not an ownership interest, in a FASIT is treated as a qualified mortgage of a real estate mortgage investment conduit ("REMIC") if 95 percent or more of the value of the FASIT's assets consists, at all times, of real estate mortgages.

The conference agreement clarifies that a regular interest, but not an ownership interest, in a FASIT is treated as a qualifying asset for purposes of the definition of a domestic building and loan association so long as at least 95 percent of the assets of the FASIT are, at all times, qualified assets.

The conference agreement delays the effective date of the provision from the date of enactment of the provision to September 1, 1997, and extends the special transitional rule to any entity created before that date. The conferees expect that, prior to September 1, 1997, Treasury will issue guidance on how the ownership rule would apply to cases in which the entity that owns the FASIT joins in the filing of a consolidated return with other members of the group that wish to hold an ownership interest in the FASIT.

20. REVISION OF EXPATRIATION TAX RULES

(Secs. 1631–1633 of the Senate amendment.)

Present law

Individuals who relinquish U.S. citizenship with a principal purpose of avoiding U.S. taxes are subject to special tax provisions for 10 years after expatriation. The determination of who is a U.S. citizen for tax purposes, and when such citizenship is lost, is governed by the provisions of the Immigration and nationality Act, 8 U.S.C. section 1401, et. seq.

An individual who relinquishes his U.S. citizenship with a principal purpose of avoiding U.S. taxes is subject to tax on his or her U.S. source income at the rates applicable to U.S. citizens, rather than the rates applicable to other non-resident aliens, for 10 years after expatriation. In addition, the scope of items treated as U.S. source income for this purpose is broader than those items generally considered to be U.S. source income. For example, gains on the sale of personal property located in the United States and gains on the sale or exchange of stock or securities issued by U.S. persons are treated as U.S. source income. This alternative method of income taxation applies only if it results in a higher U.S. tax liability.

Rules applicable in the estate and gift tax contexts expand the categories of items that are subject to the gift and estate taxes in the case of a U.S. citizen who relinquished citizenship with a principal purpose of avoiding U.S. taxes within the 10-year period ending on the date of the transfer. For example, U.S. property held through a foreign corporation controlled by such individual and related persons is included in his or her estate and gifts of U.S.-situs intangible property by such individual are subject to the gift tax.

House bill

No provision.

Senate amendment

The Senate amendment replaces the present-law expatriation income tax rules with rules that generally subject certain U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who relinquish their U.S. residency to tax on the net unrealized gain in their property as if such property were sold for fair market value on the expatriation date. The Senate amendment modifies the present-law expatriation estate and gift tax rules to apply to certain long-term U.S. residents and to provide that, for purposes of applying such rules, certain persons would be treated as having relinquished citizenship or residency for a principal purpose of avoiding U.S. taxes. The Senate amendment also imposes information reporting and sharing obligations with respect to U.S. citizens who relinquish their citizenship and long-term residents whose U.S. residency is terminated.

Effective date.—The provision generally is effective for U.S. citizens whose date of relinquishment of citizenship occurs on or after February 6, 1995 and for long-term residents who terminate their U.S. residency on or after such date.

Conference agreement

The conference agreement does not include the Senate amendment provision.

21. MODIFY TREATMENT OF FOREIGN TRUSTS

(Secs. 411–417 of H.R. 3286.)

Present law

Inbound grantor trusts with foreign grantors

Under the grantor trust rules (secs. 671–679), a grantor that retains certain rights or powers generally is treated as the owner of the trust's assets without regard to whether the grantor is a domestic or foreign person. Under these rules, U.S. trust beneficiaries are not subject to U.S. tax on distributions from a trust where a foreign grantor is treated as owner of the trust, even though no tax may be imposed on the trust income by any jurisdiction. In addition, a special rule provides that if a U.S. beneficiary of an inbound grantor trust transfers property to the foreign grantor by gift, that U.S. beneficiary is treated as the grantor of the trust to the extent of the transfer.

Foreign trusts that are no grantor trusts

Under the accumulation distribution rules (which generally apply to distributions from a trust in excess of the trust's distributable net income for the taxable year), a distribution by a foreign nongrantor trust of previously accumulated income generally is taxed at the U.S. beneficiary's average marginal rate for the prior 5 years, plus interest (secs. 666 and 667). Interest is computed at a fixed annual rate of 6 percent, with no compounding (sec. 668). If adequate records of the trust are not available to determine the proper application of the rules relating to accumulation distributions to any distribution from a trust, the distribution is treated as an accumulation distribution out of income earned during the first year of the trust (sec. 666(d)).

If a foreign nongrantor trust makes a loan to one of its beneficiaries, the principal of such a loan generally is not taxable as income to the beneficiary.

Outbound foreign grantor trusts with U.S. grantors

Under the grantor trust rules, a U.S. person that transfers property to a foreign trust generally is treated as the owner of the portion of the trust comprising that property

for any taxable year in which there is a U.S. beneficiary of any portion of the trust (sec. 679(a)). This treatment generally does not apply, however, to transfers by reason of death, to transfers made before the transferor became a U.S. person, or to transfers that represent sales or exchanges of property at fair market value where gain is recognized to the transferor.

Residence of trusts

A trust is treated as foreign if it is not subject to U.S. income taxation on its income that is neither derived from U.S. sources nor effectively connected with the conduct of a U.S. trade or business. Thus, if a trust is taxed in a manner similar to a nonresident alien individual, it is considered to be a foreign trusts. Any other trust is treated as domestic.

Section 1491 generally imposes a 35-percent excise tax on a U.S. person that transfers appreciated property to certain foreign entities, including a foreign trust. In the case of a domestic trust that changes its situs and becomes a foreign trust, it is unclear whether property has been transferred from a U.S. person to a foreign entity and, thus, whether the transfer is subject to the excise tax.

Information reporting and penalties related to foreign trusts

Any U.S. person that creates a foreign trust or transfers money or property to a foreign trust is required to report that event to the Treasury Department without regard to whether the trust is a grantor or a nongrantor trust. Similarly, any U.S. person that transfers property to a foreign trust that has one or more U.S. beneficiaries is required to report annually to the Treasury Department. In addition, any U.S. person that makes a transfer described in section 1491 is required to report the transfer to the Treasury Department.

Any person that fails to file a required report with respect to the creation of, or a transfer to, a foreign trust may be subject to a penalty of 5 percent of the amount transferred to the foreign trust. Similarly, any person that fails to file a required annual report with respect to a foreign trust with U.S. beneficiaries may be subject to a penalty of 5 percent of the value of the corpus of the trust at the close of the taxable year. The maximum amount of the penalty imposed under either case may not exceed $1,000. A reasonable cause exception is available.

Reporting of foreign gifts

There is no requirement to report gifts or bequests from foreign sources.

House bill

No provision. However, sections 411–417 of H.R. 3286 (Adoption Promotion and Stability Act of 1996) contains the following provisions:

Inbound grantor trusts with foreign grantors

The House bill generally applies only to the extent it results, directly or indirectly, in income or other amounts (if any) being currently taken into account in computing the income of a U.S. citizen or resident or a domestic corporation. Certain exceptions apply to this rule. Under one exception, the grantor trust rules continue to apply to the portion of a trust where that portion of the trust is revocable by the grantor either without approval of another person or with the consent of a related or subordinate party who is subservient to the grantor. Under another exception, the grantor trust rules continue to apply to the portion of a trust where the only amounts distributable from that portion during the lifetime of the grantor are to the grantor or the grantor's spouse. The general rule denying grantor trust status does not apply to trusts established to pay compensation, and certain trusts in existence as of September 19, 1995 provided that such trust is treated as owned by the grantor under section 676 or 677 (other than sec. 677(a)(3)).[69] In addition, the grantor trust rules generally apply where the grantor is a controlled foreign corporation (as defined in sec. 957). Finally, the grantor trust rules continue to apply in determining whether a foreign corporation is characterized as a passive foreign investment company ("PFIC"). Thus, a foreign corporation cannot avoid PFIC status by transferring its assets to a grantor trust.

If a U.S. beneficiary, or a family member of such a beneficiary,[70] of an inbound grantor trust transfers property to the foreign grantor, such beneficiary generally is treated as a grantor of a portion of the trust to the extent of the transfer. This rule applies without regard to whether the foreign grantor is otherwise treated as the owner of any portion of such trust. However, this rule does not apply if the transfer is a sale of the property for full and adequate consideration or if the transfer is a gift that qualifies for the annual exclusion described in section 2503(b).

The House bill provides a special rule that allows the Secretary of the Treasury to recharacterize a transfer, directly or indirectly, from a partnership or foreign corporation which the transferee treats as a gift or bequest, to prevent the avoidance of the purpose of section 672(f).[71] In a case where a foreign person (that would be treated as the owner of a trust but for the above rule) actually pays tax on the income of the trust to a foreign country, it is anticipated that Treasury regulations will provide that, for foreign tax credit purposes, U.S. beneficiaries that are subject to U.S. income tax on the same income will be treated as having paid the foreign taxes that are paid by the foreign grantor. Any resulting foreign tax credits would be subject to applicable foreign tax credit limitations.

The House bill provides a transition rule for any domestic trust that has a foreign grantor that is treated as the owner of the trust under present law, but becomes a nongrantor trust under the bill. If such a trust becomes a foreign trust before January 1, 1997, or if the assets of such a trust are transferred to a foreign trust before that date, such trust is exempt from the excise tax on transfers to a foreign trust otherwise imposed by section 1491. However, the House bill's new reporting requirements and penalties are applicable to such a trust and its beneficiaries. In addition, the assets of such a trust will be treated as if they were recontributed to a nongrantor trust by the foreign grantor, with no recognition of gain or loss, on the date the trust ceases to be treated as a grantor trust. The nongrantor trust will have the same basis in such assets as did the grantor on the date the trust ceases to be treated as a grantor trust.

Effective date.—The provisions described in this part are effective on the date of enactment.

Foreign trusts that are not grantor trusts

The House bill changes the interest rate applicable to accumulation distributions from foreign trusts from simple interest at a fixed rate of 6 percent to compound interest determined in the same manner as interest imposed on underpayments of tax under section 6621(a)(2). Simple interest is accrued at the rate of 6 percent through 1995. Beginning on January 1, 1996, however, compound interest based on the underpayment rate is imposed not only on tax amounts determined under the accumulation distribution rules but also on the total simple interest for pre-1996 periods, if any. For purposes of computing the interest charge, the accumulation distribution is allocated proportionately to prior trust years in which the trust has undistributed net income (and the beneficiary receiving the distribution was a U.S. citizen or resident), rather than to the earliest of such years. An accumulation distribution is treated as reducing proportionately the undistributed net income from prior years.

In the case of a loan of cash or marketable securities by the foreign trust to a U.S. grantor or a U.S. beneficiary (or a U.S. person related to such grantor or beneficiary[72]), except, to the extent provided by Treasury regulations, the House bill treats the full amount of the loan as distributed to the grantor or beneficiary. It is expected that Treasury regulations will provide an exception from this treatment for loans with arm's-length terms. In applying this exception, it is further expected that consideration be given to whether there is a reasonable expectation that a loan will be repaid. In addition, any subsequent transaction between the trust and the original borrower regarding the principal of the loan (e.g., repayment) is disregarded for all purposes of the Code. This provision does not apply to loans made to persons that are exempt from U.S. income tax.

Effective date.—The provision to modify the interest charge on accumulation distributions applies to distributions after the date of enactment. The provision with respect to loans to U.S. grantors, U.S. beneficiaries or a related U.S. person related to such a grantor or beneficiary applies to loans made after September 19, 1995.

Outbound foreign grantor trusts with U.S. grantors

The House bill makes several modifications to the general rule of section 679(a)(1) under which a U.S. person who transfer property to a foreign trust generally is treated as the owner of the portion of the trust comprising that property for any taxable year in which there is a U.S. beneficiary of the trust. The House bill also contains an amendment to conform the definition of certain foreign corporations the income of which is deemed to be accumulated for the benefit of a U.S. beneficiary to the definition controlled foreign corporations (as defined in sec. 957(a)).

Sale or exchange at market value.—Present law contains several exceptions to grantor trust treatment under section 679(a)(1) described above. Under one of the exceptions, grantor trust treatment does not result from a transfer of property by a U.S. person to a foreign trust in the form of a sale or exchange at fair market value where gain is

[69] The exception does not apply to the portion of any such trust attributable to any transfers made after September 19, 1995.

[70] For this purpose, a family member is generally defined as a brother, sister, spouse, ancestor or lineal descendant.

[71] See discussion below for reporting requirements under the House bill with respect to certain foreign gifts and bequests received by a U.S. person.

[72] For this purpose, a person generally would be treated as related to the grantor or beneficiary if the relationship between such person and the grantor or beneficiary would result in a disallowance of losses under section 267 or 707(b), except that in applying section 267(c)(4) an individual's family includes the spouses of the members of the family.

recognized to the transferor. In determining whether the trust paid fair markets value to the transferor, the House bill provides that obligations issued (or, to the extent provided by regulations, guaranteed) by the trust, by any grantor or beneficiary of the trust, or by any person related to any grantor or beneficiary[73] (referred to as "trust obligations") generally are not taken into account except as provided in Treasury regulations. It is expected that Treasury regulations will provide an exception from this treatment for loans with arm's-length terms. In applying this exception, it is further expected that consideration be given to whether there is a reasonable expectation that a loan will be repaid. Principal payments by the trust on any such trust obligations generally will reduce the portion of the trust attributable to the property transferred (i.e., the portion of which the transferor is treated as the grantor).

Other transfers.—The House bill adds new exception to the general rule of section 679(a)(1) described above. Under the House bill, a transfer of property to certain charitable trusts is exempt from the application of the rules treating foreign trusts with U.S. grantors and U.S. beneficiaries as grantor trusts.

Transferors or beneficiaries who become U.S. persons.—The House bill applies the rule of section 679(a)(1) to certain foreign persons who transfer property to a foreign trust and subsequently become U.S. persons. A nonresident alien individual who transfers property, directly or indirectly, to a foreign trust and then becomes a resident of the United States within 5 years after the transfer generally is treated as making a transfer to the foreign trust on the individual's U.S. residency starting date (as defined in sec. 7701(b)(2)(A)). The amount of the deemed transfer is the portion of the trust (including undistributed earnings) attributable to the property previously transferred. Consequently, the individual generally is treated under section 679(a)(1) as the owner of that portion of the trust in any taxable year in which the trust has U.S. beneficiaries.

Outbound trust migrations.—The House bill applies the rules of section 679(a)(1) to a U.S. person who transferred property to a domestic trust if the trust subsequently becomes a foreign trust while the transferor is still alive. Such a person is deemed to make a transfer to the foreign trust on the date of the migration. The amount of the deemed transfer is the portion of the trust (including undistributed earnings) attributable to the property previously transferred. Consequently, the individual generally is treated under the rules of section 679(a)(1) as the owner of that portion of the trust in any taxable year in which the trust has U.S. beneficiaries.

Effective date.—The provisions to amend section 679 apply to transfers of property after February 6, 1995.

Anti-abuse regulatory authority

The House bill includes an anti-abuse rule which authorizes the Secretary of the Treasury to issue regulations, on or after the date of enactment, that may be necessary or appropriate to carry out the purposes of the rules applicable to estates, trusts and beneficiaries, including regulations to prevent the avoidance of those purposes.

Effective date.—The provision is effective on the date of enactment.

Residence of trusts

The House bill establishes a two-part objective test for determining for tax purposes whether a trust is foreign or domestic. If both parts of the test are satisfied, the trust is treated as domestic. Under the first part of the proposed test, if a U.S. court (i.e., Federal, State, or local) exercises primary supervision over the administration of the trust, the trust is treated as domestic. Under the second part of the proposed test, in order for a trust to be treated as domestic, one or more U.S. fiduciaries must have the authority to control all substantial decisions of the trust.

Under the House bill, if a domestic trust changes its situs and becomes a foreign trust, the trust is treated as having made a transfer of its assets to a foreign trust and is subject to the 35-percent excise tax imposed by present-law section 1491 unless one of the exceptions to this excise tax is applicable.

Effective date.—The provision to modify the treatment of a trust as a U.S. person applies to taxable years beginning after December 31, 1996. In addition, if the trustee of a trust so elects, the provision would apply to taxable years ending after the date of enactment. The amendment to section 1491 is effective on the date of enactment.

Information reporting and penalties relating to foreign trusts

The House bill generally requires the grantor, transferor or executor (i.e., the "responsible party") to file information returns with the Treasury Department upon the occurrence of certain events. The term "reportable event" generally means the creation of any foreign trust by a U.S. person, the direct and indirect transfer of any money or property to a foreign trust, including a transfer by reason of death, and the death of a U.S. citizen or resident if any portion of a foreign trust was included in the gross estate of the decedent. In addition, a U.S. owner of any portion of a foreign trust generally is required to ensure that the trust files an annual return to provide full accounting of all the trust activities for the taxable year. Finally, any U.S. person that receives (directly or indirectly) any distribution from a foreign trust generally is required to file a return to report the name of the trust, the aggregate amount of the distributions received, and other information that the Secretary of the Treasury may prescribe.

Under the House bill, a person that fails to provide the required notice or return in cases involving the transfer of property to a new or existing foreign trust, or a distribution by a foreign trust to a U.S. person, is subject to an initial penalty equal to 35 percent of the gross reportable amount. A failure to provide an annual reporting of trust activities will result in an initial penalty equal to 5 percent of the gross reportable amount.

The House bill provides that if a U.S. owner of any portion of a foreign trust fails to appoint a limited U.S. agent to accept service of process with respect to any requests and summons by the Secretary of the Treasury in connection with the tax treatment of any items related to the trust, the Secretary may determine the tax consequences of amounts to be taken into account under the grantor trust rules. In cases where adequate records are not provided to the Secretary to determine the proper treatment of any distributions from a foreign trust, the distribution is includible in the gross income of the U.S. distributee and is treated as an accumulation distribution from the middle year of a foreign trust (i.e., computed by taking the number of years that the trust has been in existence divided by 2) for purposes of computing the interest charge applicable to such distribution, unless the foreign trust elects to have a U.S. agent for the limited purpose of accepting service of process (as described above).

Under the House bill, a person that fails to provide the required notice or return in cases involving the transfer of property to a new or existing foreign trust, or a distribution by a foreign trust to a U.S. person, is subject to an initial penalty equal to 35 percent of the gross reportable amount (generally the value of the property involved in the transaction). A failure to provide an annual reporting of trust activities will result in an initial penalty equal to 5 percent of the gross reportable amount. An additional $10,000 penalty is imposed for continued failure for each 30-day period (or fraction thereof) beginning 90 days after the Treasury Department notifies the responsible party of such failure. Such penalties are subject to a reasonable cause exception. In no event will the total amount of penalties exceed the gross reportable amount.

Effective date.—The reporting requirements and applicable penalties generally apply to reportable events occurring or distributions received after the date of enactment. The annual reporting requirement and penalties applicable to U.S. grantors apply to taxable years of such persons beginning after December 31, 1995.

REPORTING OF FOREIGN GIFTS

The House bill generally requires any U.S. person (other than certain tax-exempt organizations) that receives purported gifts or bequests from foreign sources total more than $10,000 during the taxable year to report them to the Treasury Department. The threshold for this reporting requirement is indexed for inflation. The definition of a gift to a U.S. person for this purpose excludes amounts that are qualified tuition or medical payments made on behalf of the U.S. person, as defined for gift tax purposes (sec. 2503(e)(2)), and amounts that are distributions to a U.S. beneficiary of a foreign trust if such amounts are properly disclosed under the reporting requirements of the House bill. If the U.S. person fails, without reasonable cause, to report foreign gifts as required, the Secretary of the Treasury is authorized to determine the tax treatment of the unreported gifts. It is intended that the Treasury Secretary's exercise of its authority to make such a determination will be subject to judicial review under a arbitrary or capricious standard, which provides a high degree of deference to such determination. In addition, the U.S. person is subject to a penalty equal to 5 percent of the amount of the gift for each month that the failure continues, with the total penalty not to exceed 25 percent of such amount.

Effective date.—The provision applies to amounts received after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House bill provision of H.R. 3286 with one modification and two clarifications.

If a U.S. beneficiary of an unbound grantor trust transfers property to a foreign grantor, such beneficiary generally is treated as a

[73] For this purpose, a person is treated as related to the grantor or beneficiary if the relationship between such person and the grantor or beneficiary would result in a disallowance of losses under section 267 or 707(b), except that in applying section 267(c)(4) an individual's family includes the spouses of the members of the family.

grantor of a portion of the trust to the extent of the transfer. Under the conference agreement, this provision generally does not apply transfers by a family member of such a beneficiary.

The conferees wish to clarify that in exercising its regulatory authority to treat a U.S. trust as a foreign trust for purposes of information reporting purposes, the Secretary of the Treasury will take into account the information that such a trust reported under the domestic trust reporting rules.

Under the House bill, the section 1491 excise tax applies when a domestic trust changes its situs and becomes a foreign trust after the date of enactment. In addition, under the House bill, a trustee may elect to apply the new objective test for determining the residence of a trust to the taxable year of the trust ending after the date of enactment. The conferees wish to clarify that when a trustee makes this election, and thereby changes the situs of a trust from domestic to foreign, the trust is treated as having made an outbound transfer of its assets on the date of such election. Consequently, the section 1491 excise tax will apply to such a transfer.

22. TREATMENT OF BAD DEBT DEDUCTIONS OF THRIFT INSTITUTIONS

(Sec. 401 of the H.R. 3103 and sec. 611 of the Senate amendment to H.R. 3103.)

Present law

Generally, a taxpayer engaged in a trade or business may deduct the amount of any debt that becomes wholly or partially worthless during the year (the "specific charge-off" method of sec. 166). Certain thrift institutions (building and loan associations, mutual savings banks, or cooperative banks) are allowed deductions for bad debts under rules more favorable than those granted to other taxpayers (and more favorable than the rules applicable to other financial institutions). Qualified thrift institutions may compute deductions for bad debts using either the specific charge-off method or the reserve method of section 593. To qualify for this reserve method, a thrift institution must meet an asset test, requiring that 60 percent of its assets consist of "qualifying assets" (generally cash, government obligations, and loans secured by residential real property). This percentage must be computed at the close of the taxable year, or at the option of the taxpayer, as the annual average of monthly, quarterly, or semiannual computations of similar percentages.

If a thrift institution uses the reserve method of accounting, it must establish and maintain a reserve for bad debts and charge actual losses against the reserve, and is allowed a deduction for annual additions to restore the reserve to its permitted balance. Under section 593, a thrift institution annually may elect to calculate its addition to its bad debt reserve under either (1) the "percentage of taxable income" method applicable only to thrift institutions, or (2) the "experience" method that also is available to small banks.

Under the "percentage of taxable income" method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to 8 percent of its taxable income (determined without regard to this deduction and with additional adjustments). Under the experience method, a thrift institution generally is allowed a deduction for an addition to its bad debt reserve equal to the greater of: (1) an amount based on its actual average experience for losses in the current and five preceding taxable years, or (2) an amount necessary to restore the reserve to its balance as of the close of the base year. For taxable years beginning before 1988, the "base year" was the last taxable year before the most recent adoption of the experience method (i.e., generally, the last year the taxpayer was on the percentage of taxable income method). For taxable years beginning after 1987, the base year is the last taxable year beginning before 1988. Prior to 1988, computing bad debts under a "base year" rule allowed a thrift institution to claim a deduction for bad debts for an amount at least equal to the institution's actual losses that were charged off during the taxable year.

If a thrift institution becomes a commercial bank, or if the institution fails to satisfy the 60-percent qualified asset test, it is required to change its method of accounting for bad debts and, under proposed Treasury regulations, is required to recapture its bad debt reserve. The percentage-of-taxable-income portion of the reserve generally is included in income ratably over a 6-taxable year period. The experience method portion of the reserve is not restored to income if the former thrift institution qualifies as a small bank. If the former thrift institution is treated as a large bank, the experience method portion of the reserve is restored to income ratably over a 6-taxable year period, or under the 4-year recapture method or the cut-off method described above.

In addition, a thrift institution may be subject to a form of reserve recapture even if the institution continues to qualify for the percentage of taxable income method. Specifically, if a thrift institution distributes to its shareholders an amount in excess of its post-1951 earnings and profits, such excess is deemed to be distributed from the nonexperience potion of the institution's bad debt reserve and is restored to income. In the case of any distribution in redemption of stock or in partial or complete liquidation of an institution, the distribution is treated as first coming from the nonexperience potion of the bad debt reserves of the institution (sec. 593(e)).

House bill

No provision in H.R. 3448. Section 401 of H.R. 3103, the "Health Coverage Availability and Affordability Act of 1996," as passed by the House of Representatives on March 28, 1996, contained the following provision.

Repeal of section 593

The bill repeals the section 593 reserve method of account for bad debts by thrift institutions, effective for taxable years beginning after 1995. Thrift institutions that would be treated as small banks (as determined under sec. 585(c)(2)) are allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks are required to use only the specific charge-off method.

Treatment of recapture of bad debt reserves

In general.—A thrift institution required to change its method of computing reserves for bad debts will treat such change as a change in a method of accounting, initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury. Any section 481(a) adjustment required to be taken into account with respect to such change generally will be determined solely with respect to the "applicable excess reserves" of the taxpayer. The amount of applicable excess reserves shall be taken into account ratably over a six-taxable year period, beginning with the first taxable year beginning after 1995, subject to the residential loan requirement described below. In the case of a thrift institution that becomes a large bank, the amount of the institution's applicable excess reserves generally is the excess of (1) the balance of its reserves described in section 593(c)(1) other than its supplemental reserve for losses on loans (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1996, over (2) the balance of such reserves (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1988 (i.e., the "pre-1988 reserves"). Similar rules would apply to small banks.

The balance of the pre-1988 reserves is subject to the provisions of section 593(e) (requiring recapture in the case of certain excess distributions to, and redemptions of, shareholders). In addition, the balances of the pre-1988 reserve and the supplemental reserve will be treated as tax attributes to which section 381 applies. Certain internal reorganizations of a group of thrift institutions will not be treated as distributions to shareholders for purposes of section 593(e). Further, if a taxpayer no longer qualifies as a bank (as defined by sec. 581), the balances of the taxpayer's pre-1988 reserve and supplement reserves are restored to income ratably over a six-year period, beginning in the taxable year the taxpayer no longer qualifies as a bank.

Residential loan requirement.—Under a special rule, if the taxpayer meets the "residential loan requirement" for a taxable year, the recapture of the applicable excess reserves otherwise required to be taken into account as a section 481(a) adjustment for such year will be suspended. A taxpayer meets the residential loan requirement if, for the taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than its base amount. The residential loan requirement is applicable only for taxable years that begin after December 31, 1995, and before January 1, 1998, and must be applied separately with respect to each such year.

Treatment of conversions to credit unions

The bill provides that if a thrift institution to which the repeal of section 593 applies becomes a credit union, the credit union will be treated as a institution that is not a bank and any section 481(a) adjustment required to be included in gross income will be treated as derived from an unrelated trade or business.

Effective date

The provision general is effective for taxable years beginning after December 31, 1995. The amendments to section 593(e) do not apply to certain distributions with respect to preferred stock.

Senate amendment

No provision in the Senate amendment to H.R. 3448. Section 611 of the Senate amendment to H.R. 3103, the "Health Coverage Availability and Affordability Act of 1996," as passed by the Senate on April 23, 1996, contained a provision similar to the provision in the House-passed version of H.R. 3103.

Conference agreement

The conference agreement generally follows the provision in the House-and Senate-passed versions of H.R. 3103, with modifications. The following describes the provisions of the conference agreement.

Repeal of section 593

The conference agreement repeals the section 593 reserve method of accounting for bad

debts by thrift institutions, effective for taxable years beginning after 1995. Thrift institutions that would be treated as small banks[74] are allowed to utilize the experience method applicable to such institutions, while thrift institutions that are treated as large banks are required to use only the specific charge-off method. Thus, the percentage of taxable income method of accounting for bad debts is no longer available for any financial institution. The conference agreement also repeals the following present-law provisions that only apply to thrift institutions to which section 593 applies: (1) the denial of a portion of certain tax credits to a thrift institution (sec. 50(d)(1)); (2) the special rules with respect to the foreclosure of property securing loans of a thrift institution (sec. 595); (3) the reduction in the dividends received reduction of a thrift institution (sec. 596); and (4) the ability of a thrift institution to use a net operating loss to offset its income from a residual interest in REMIC (sec. 860E(a)(2)).

Treatment of recapture of bad debt reserves

In general.—A thrift institution required to change its method of computing reserves for bad debts will treat such change as a change in a method of accounting initiated by the taxpayer, and having been made with the consent of the Secretary of the Treasury.[75] Any section 481(a) adjustment required to be taken into account with respect to such change generally will be determined solely with respect to the "applicable excess reserves" of the taxpayer. The amount of applicable excess reserves shall be taken into account ratably over a six-taxable year period, beginning with the first taxable year beginning after 1995, subject to the residential loan requirement described below. In the case of a thrift institution that becomes a "large bank" (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves generally is the excess of (1) the balance of its reserves described in section 593(c)(1) other than its supplemental reserve for losses on loans (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1996, over (2) the balance of such reserves (i.e., its reserve for losses on qualifying real property loans and its reserve for losses on nonqualifying loans) as of the close of its last taxable year beginning before January 1, 1988 (i.e., the "pre-1988 reserves").[76] Thus, a thrift institution that is treated as a large bank generally is required to recapture its post-1987 additions to its bad debt reserves, whether such additions are made pursuant to the percentage of taxable income method or the experience method. The timing of this recapture may be delayed for a one- or two-year period to the extent the residential loan requirement described below applies.

In the case of a thrift institution that becomes a "small bank" (as determined under sec. 585(c)(2)), the amount of the institution's applicable excess reserves will be the excess of (1) the balance of its reserves described in section 593(c)(1) as of the close of its last taxable year beginning before January 1, 1996, over (2) the greater of the balance of: (a) its pre-1988 reserves or (b) what the institution's reserves would have been at the close of its last taxable year beginning before January 1, 1996, had the institution always used the experience method described in section 585(b)(2)(A) (i.e., the six-year average method). For purposes of the future application of section 585, the beginning balance of the small bank's reserve for its first taxable year beginning after December 31, 1995, will be the greater of the two amounts described in (2) in the preceding sentence, and the balance of the reserve at the close of the base year (for purposes of sec. 585(b)(2)(B)) will be the amount of its pre-1988 reserves. The residential loan requirement described below also applies to small banks. If such small bank later becomes a large bank, any section 481(a) adjustment amount required to be taken into account under section 585(c)(3) will not include any portion of the bank's pre-1988 reserve. Similarly, if the bank elects the cut-off method to implement its conversion to large bank status, the amount of the reserve against which the bank charges its actual losses will not include any portion of the bank's pre-1988 reserve and the amount by which the pre-1988 reserve exceeds actual losses will not be included in gross income.

The balance of the pre-1988 reserves is subject to the provisions of section 593(e), as modified by the conference agreement (requiring recapture in the case of certain excess distributions to, and redemptions of, shareholders). Thus, section 593(e) will apply to an institution regardless of whether the institution becomes a commercial bank or remains a thrift institution. In addition, the balances of the pre-1988 reserve and the supplemental reserve will be treated as tax attributes to which section 381 applies. The conferees expect that Treasury regulations will provide rules for the application of section 593(e) in the case of mergers, acquisitions, spin-offs, and other reorganizations of thrift and other institutions.[77] The conferees believe that any such regulations should provide that, if the stock of an institution with a pre-1988 reserve is acquired by another depository institution, the pre-1988 reserve will not be restored to income by reason of the acquisition. Similarly, if an institution with a pre-1988 reserve is merged or liquidated tax-free into a bank, the pre-1988 reserve should not be restored to income by reason of the merger or liquidation. Rather, the bank will inherit the pre-1988 reserve and the post-1951 earnings and profits of the former thrift institution and section 593(e) will apply to the bank as if it were a thrift institution. That is, the pre-1988 reserve will be restored into income in the case of any distribution in redemption of the stock of the bank or in partial or complete liquidation of the bank following the merger or liquidation. In the case of any other distribution, the pre-1988 reserve will not be restored to income unless the distribution is in excess of the sum of the post-1951 earnings and profits inherited from the thrift institution and the post-1913 earnings and profits of the acquiring bank.[78] The conferees expect that Treasury regulations will address the case where the shareholders of an institution with a pre-1988 reserve are "cashed out" in a taxable merger of the institution and a bank. Such regulations may provide that the pre-1988 reserve may be restored to income if such redemption represents a concealed distribution from the former thrift institution. For example, cash received by former thrift shareholders pursuant to a taxable reverse merger may represent a concealed distribution if, immediately preceding the merger, the acquiring bank had no available resources to distribute and its existing debt structure, indenture restriction, financial condition, or regulatory capital requirements precluded it from borrowing money for purposes of making the cash payment to the former thrift shareholders. No inference is intended by the conferees as to the application of section 593(e) to these and similar transactions under present law.

Further, if a taxpayer no longer qualifies as a bank (as defined by sec. 581), the balances of the taxpayer's pre-1988 reserve and supplemental reserves are restored to income ratably over a six-year period, beginning in the taxable year the taxpayer no longer qualifies as a bank.

Residential loan requirement.—Under a special rule, if the taxpayer meets the 'residential loan requirement" for a taxable year, the recapture of the applicable excess reserve otherwise required to be taken into account as a section 481(a) adjustment for such year will be suspended. A taxpayer meets the residential loan requirement if, for the taxable year, the principal amount of residential loans made by the taxpayer during the year is not less than its base amount. The residential loan requirement is applicable only for taxable years that begin after December 31, 1995, and before January 1, 1998, and must be applied separately with respect to each such year. Thus, all taxpayers are required to recapture their applicable excess reserves within six, seven, or eight years after the effective date of the provision.

The "base amount" of a taxpayer means the average of the principal amounts of the residential loans made by the taxpayer during the six most recent taxable years beginning before January 1, 1996. At the election of the taxpayer, the base amount may be computed by disregarding the taxable years within that six-year period in which the principal amounts of loans made during such

[74] Under present-law section 581, the definition of a "bank" includes a thrift institution.

[75] The provisions of the conference agreement will apply to a thrift institution that has a taxable year that begins after December 31, 1995, even if such taxable year is a short taxable year that comes to a close because the thrift institution is acquired by a non-thrift institution.

In addition, a thrift institution that uses a reserve method described in section 593 will be deemed to have changed its method of computing reserves for bad debts even though such institution will be allowed to use the reserve method of section 585. Similarly, a large thrift institution will be deemed to have changed its method of computing reserves for bad debts even through such institution used the experience-method portion of section 593 in lieu of the percentage-of-taxable-income method of section 593.

[76] The balance of a taxpayer's pre-1988 reserves is reduced if the taxpayer's loan portfolio had decreased since 1988. The permitted balance of a taxpayer's pre-1988 reserves is reduced by multiplying such balance by the ratio of the balance of the taxpayer's loans outstanding at the close of the last taxable beginning before 1996, to the balance of the taxpayer's loans outstanding at the close of the last taxable beginning before 1988. This reduction is required for both large and small banks.

[77] The conferees expect that in the case of the merger, acquisition, spin-off, or other reorganization involving only thrift institutions, section 593(e) as modified by the conference agreement, will continue to be applied in a manner similar to the way section 593(e) is applied under present law.

However, guidance will be needed in the case of transactions where one of the parties to the transaction is not a thrift institution. Guidance may be needed because the issue of whether section 593(e) applies in the case where a thrift institution is merged into a bank generally does not arise under present law because such merger results in a charter change and, under proposed Treasury regulations, requires full bad debt reserve recapture.

[78] If the acquiring bank is a former thrift institution itself and the pre-1988 reserves of neither institution are restored to income pursuant to the merger, the conferees expect that the pre-1988 reserves and the post-1951 earnings and profits of the two institutions will be combined for purposes of the continued application of section 593(e) with respect to the combined institution.

years were highest and lowest. This election must be made for the first taxable year beginning after December 31, 1995, and applies to the succeeding taxable year unless revoked with the consent of the Secretary of the Treasury or his delegate.

For purposes of the residential loan requirement, a loan will be deemed to be "made" by a financial institution to the extent the institution is, in fact, the principal source of the loan financing. Thus, any loan only can be "made" once. The conferees expect that loans "made" by a financial institution may include, but are not limited to, loans (1) originated directly by the institution through its place of business or its employees, (2) closed in the name of the institution, (3) originated by a broker that acts as an agent for the institution, and (4) originated by another person (other than a financial institution) and that are acquired by the institution pursuant to a pre-existing, enforceable agreement to acquire such loans. In addition, Treasury regulations also may provide that loans "made" by a financial institution may include loans originated by another person (other than a financial institution) acquired by the institution soon after origination if such acquisition is pursuant to a customary practice of acquiring such loans from such person. A loan acquired by a financial institution from another financial institution generally will be considered to be made by the transferor rather than the transferee of the loan; however, such loan may be completely disregarded if a principal purpose of the transfer was to allow the transferor to meet the residential loan requirement. A loan may be considered to be made by a financial institution even if such institution has an arrangement to transfer such loan to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

For purposes of the residential loan requirement, a "residential loan" is a loan described in section 7701(a)(19)(C)(v) (generally, loans secured by residential real and church property and certain mobile homes),[79] but only to the extent the loan is made to the owner of the property to acquire, construct, or improve the property. Thus, mortgage refinancings and home equity loans are not considered to be residential loans, except to the extent the proceeds of the loan are used to acquire, construct, or improve qualified residential real property. The conferees understand that pursuant to the Home Mortgage Disclosure Act, financial institutions are required to disclose the purpose for which loans are made. The conferees further understand that for purposes of this disclosure, institutions are required to classify loans as home purchase loans, home improvement loans, refinancings, and multifamily dwelling loans (whether for purchase, improvement or refinancing of such property). The conferees expect that taxpayers (and the Secretary of the Treasury in promulgating guidance) may take such reporting into account, and make such adjustments as are appropriate,[80] in determining: (1) whether or not a loan qualifies as a "residential loan" and (2) whether the institution "made" the loan. A taxpayer must use consistent standards for determining whether loans qualify as residential loans made by the institution both for purposes of determining its base amount and for purposes of determining whether it met the residential loan requirement for a taxable year.

The residential loan requirement is determined on a controlled group basis. Thus, for example, if a controlled group consists of two thrift institutions with applicable excess reserves that are wholly-owned by a bank, the residential loan requirement will be met (or not met) with respect to both thrift institutions by comparing the principal amount of the residential loans made by all three members of the group during the taxable year to the group's base amount. The group's base amount will be the average principal amount of residential loans made by all three members of the group during the base period. The election to disregard the high and low taxable years during the 6-year base period also would be applied on a controlled group basis (i.e., generally by treating the members of the group as one taxpayer so that all members of the group must join in the election, and the same corresponding years of each member would be so disregarded).

Treasury regulations may provide rules for the application of the residential loan requirement in the case of mergers, acquisitions, and other reorganizations of thrift and other institutions. For example, the balance of a taxpayer's applicable excess reserve will be treated as a tax attribute to which section 381 applies. Thus, if an institution with an applicable excess reserve is acquired in a tax-free reorganization, the conferees expect that balance of such reserve will not be immediately restored to income but will continue to be subject to the residential loan requirement in the hands of the acquirer. The conferees further expect that if a financial institution joins or merges into (or leaves) a group of financial institutions, the base amount of the acquiring (or remaining) group will be appropriately adjusted to reflect the base amount of the acquired (or departing) institution for purposes of determining whether the group meets the residential loan requirement for the year of the acquisition (or departure) and subsequent years. Similarly, if a controlled group of institutions had made an election to disregard its high and low years in computing its base amount, it is anticipated that such election shall be binding on any institution that subsequently joins the group and the election shall be applied to the new member by disregarding the high and low years of the new member even if such years do not correspond to the years applicable to the other members of the group.

Treatment of conversions to credit unions

The conference agreement provides that if a thrift institution to which the repeal of section 593 applies becomes a credit union, the credit union will be treated as an institution that is not a bank and any section 481(a) adjustment required to be included in gross income will be treated as derived from an unrelated trade or business. Thus, if a thrift institution becomes a credit union in its first taxable year beginning after December 31, 1995, the entire balance of the institution's bad debt reserve will be included in income, and subject to tax, over a six-year period beginning with such taxable year. No inference is intended as to the Federal income tax treatment of any other aspect of the conversion of a financial institution to a credit union.

Effective date.—The repeal of section 593 is effective for taxable years beginning after December 31, 1995. The repeal of section 595 is effective for property acquired in taxable years beginning after December 31, 1995. The amendment to section 860E does not apply to any residual interest in a REMIC held by the taxpayer on October 31, 1995, and at all times thereafter.

The amendment to section 593(e)(1)(B) does not apply to any distributions with respect to preferred stock (including redemptions of such stock) if: (1) such stock was issued and outstanding as of November 1, 1995, and at all times thereafter before the distribution and (2) such distribution is made within the later of (a) one year after the date of enactment of this Act or (b) if the stock is redeemable by the issuer or a related party, 30 days after the date such stock first may be redeemed. For this purpose, the first date a preferred stock may be redeemed is the day upon which the issuer or a related party has the right to call the stock, regardless of the amount of call premium.

23. REMOVE BUSINESS EXCLUSION FOR ENERGY SUBSIDIES PROVIDED BY PUBLIC UTILITIES

(Sec. 401 of H.R. 3286.)

Present law

Internal Revenue Code section 136, as added by the Energy Policy Act of 1992, provides an exclusion from the gross income of a customer of a public utility for the value of any subsidy provided by the utility for the purchase or installation of an energy conservation measure with respect to a dwelling unit (as defined by sec. 280A(f)(1)). In addition, for subsidies received after 1994, section 136 provides a partial exclusion from gross income for the value of any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit. The amount of the exclusion is 40 percent of the value for subsidies received in 1995, 50 percent of the value for subsidies received in 1996, and 65 percent of the value for subsidies received after 1996.

For this purpose, an energy conservation measure is any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to property. With respect to property other than a dwelling unit, an energy conservation measure includes "specially defined energy property" (generally, property described in sec. 48(l)(5) of the Code as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

The exclusion does not apply to payments made to or from a qualified cogeneration facility or a qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978.

Section 136 denies a deduction or credit to a taxpayer (or in appropriate cases requires a reduction in the adjusted basis of property of a taxpayer) for any expenditure to the extent that a subsidy related to the expenditure was excluded from the gross income of the taxpayer.

House bill

No provision in H.R. 3448. Section 401 of H.R. 3286, the "Adoption Promotion and Stability Act of 1996," as passed by the House,

[79] For this purpose, as under present law, if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan will be deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). In addition, loans made to finance the acquisition or development of land will be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary of the Treasury, there is a reasonable assurance that the property will become residential real property within a period of three years from the date of acquisition of the land.

[80] For example, adjustments will be required with respect to the reporting of multifamily dwellings in order to distinguish home purchase, home improvement, and refinancing loans.

repeals the partial exclusion for any subsidy provided by a utility for the purchase or installation of an energy conservation measure with respect to property that is not a dwelling unit.

Effective date.—The provision is effective for subsidies received after December 31, 1996, unless received pursuant to a binding written contract in effect on September 13, 1995, and all times thereafter.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the provision in H.R. 3286.

VII. TAX TECHNICAL CORRECTIONS PROVISIONS

House bill

The House bill contains technical, clerical, and conforming amendments to the Revenue Reconciliation Act of 1990, the Revenue Reconciliation Act of 1993, and other recently enacted tax legislation.

Senate amendment

The Senate amendment is the same as the House bill, except as follows:

(a) Expiration date of special ethanol blender refund (sec. 1703(k) of the Senate amendment)

The Senate amendment corrects a 1990 drafting error by conforming the expiration date for an excise tax expedited refund provision for gasohol blenders to that for gasoline tax provisions generally.

(b) Estate tax freezes (sec. 1702(f) of the House bill and the Senate amendment)

The House bill includes a provision (also contained in prior technical corrections bills) to provide a special definition of "applicable family member" for purposes of determining control under section 2701 of the Code (relating to special valuation rules in case of transfers of certain interests in corporations or partnerships). The Senate amendment does not include this provision.

(c) Certain property not treated as section 179 property (sec. 1704(u) of the House bill and sec. 1702(h)(19) of the Senate amendment)

The House bill includes a provision denying the section 179 expensing allowance to (1) property described in section 50(b) (generally property used outside the United States, property used in connection with furnishing lodging, property used by tax exempt organizations, governments and foreign persons); (2) air conditioning or heating units; and (3) horses. The provision is effective for property placed in service after May 14, 1996.

The Senate amendment does not deny the expensing allowance for horses. The provision in the Senate amendment is effective as if included in the Revenue Reconciliation Act of 1990.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with respect to identical provisions, with one modification. That modification deletes the technical correction related to a Tax Reform Act of 1986 transition rule allowing tax-exempt bonds to be issued for certain facilities. The 1986 provision to which that technical correction relates expired after December 31, 1990, and the correction has been rendered moot by passage of time.

With regard to the differing provisions, the conference agreement includes the following:

(a) Expiration date of special ethanol blender refund

The conference agreement follows the Senate amendment.

(b) Estate tax freezes

The conference agreement follows the House bill.

(c) Certain property not treated as section 179 property

The conference agreement follows the Senate amendment.

(d) Intermediate sanctions penalty provisions

The conference agreement corrects a drafting error in the Taxpayer Bill of Rights II (H.R. 2337) with respect to the additional filing and disclosure rules imposed on certain tax-exempt organizations as part of the intermediate sanctions provisions. The conference agreement increases (from $10 to $20 per each day of failure) present-law penalties that apply when a tax-exempt organization fails to allow public inspection of its annual returns (sec. 6652(c)(1)(C)) or fails to allow public inspection of its application for recognition of tax-exempt status (sec. 6652(c)(1)(D)). In addition, the conference agreement increases the section 6652(c)(1)(C) maximum penalty with respect to any one return from $5,000 to $10,000.

TRADE PROVISIONS

GENERALIZED SYSTEM OF PREFERENCES

Subtitle J of Title I of the conference agreement, the Generalized System of Preferences (GSP) Renewal Act of 1996, is a substitute amendment to Title V of the Trade Act of 1974, which expired on July 31, 1995. As indicated below, the conference agreement reinstates several provisions of expired law without change.

1. BASIC AUTHORITY

Expired law

Section 501 of the Trade Act of 1974, as amended, (Generalized System of Preferences) grants authority to the President to provide duty-free treatment to imports of eligible articles from designated Beneficiary Developing Countries (BDCs), subject to certain conditions and limitations.

House bill

No provision.

Senate amendment

No provision.

Conference Agreement

The conference agreement reinstates the expired section 501 of Title V, without change.

2. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES

Expired law

Section 502 of the Trade Act of 1974 sets forth both the procedures for designating countries as Beneficiary Developing Countries (BDCs) and the conditions for such designation. This section establishes conditions for designation which are mandatory and others which are discretionary. With regard to mandatory conditions, the President is prohibited from designating any country for GSP benefits which is a developed country listed in section 502(b). Further, the term "country" is defined as any foreign country, and overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands.

Under Section 502(b), the President is prohibited from designating specific developed countries as BDCs: Australia, Austria, Canada, European Union member states, Finland, Iceland, Japan, Monaco, New Zealand, Norway, Sweden, and Switzerland.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement amends the definition of country to include "any territory" and deletes the reference in section 502(b) to Austria, Finland, and Sweden which are now European Union member states.

3. MANDATORY CONDITIONS

Expired law

Under section 502(c) the President is prohibited from designating as a BDC a country which:

(a) is a Communist country, unless (i) its products receive non-discriminatory most-favored-nation (MFN) treatment, (ii) it is a GATT Contracting Party and a member of the International Monetary Fund (IMF), and (iii) it is not dominated or controlled by international communism;

(b) is an OPEC member, or a party to another arrangement, and participates in an action the effect of which is to withhold supplies of vital commodity resources from international trade or raise their price to an unreasonable level and to cause disruption of the world economy, subject to trade agreement exemptions consistent with objectives under the Trade Act of 1974;

(c) affords "reverse preferences" having or likely to have a significant adverse effect on U.S. commerce, unless the President receives satisfactory assurances of elimination before January 1, 1976;

(d) has nationalized or expropriated U.S. property, or taken similar actions, unless compensation is made, being negotiated, or in arbitration;

(e) fails to recognize as binding or enforce arbitral awards in favor of U.S. citizens;

(f) aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism; and

(g) has not taken or is not taking steps to afford internationally recognized worker rights to its workers.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates expired law, except, with respect to mandatory conditions: in (a)(ii), replaces "is a GATT contracting party" with "is a Member of the World Trade Organization."; in (b), deletes the reference to OPEC member and the exemption authority; in (c), deletes the satisfactory assurances exemption for reverse preferences.

4. DISCRETIONARY CRITERIA

Expired law

Under section 502(c) of the Trade Act of 1974 the President must take into account a list of factors in determining whether to designate a country a BDC, including whether or not other major developed countries are granting GSP to the country, whether or not the country has taken or is taking steps to afford its workers internationally recognized workers rights, and the extent to which the country is providing adequate and effective intellectual property protection.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement makes no substantive change to the expired provision, but

makes a technical change to the intellectual property rights criterion.

5. GRADUATION OF BDC'S

Expired law

Countries are graduated from GSP eligibility if the per capita GNP of any BDC for any year exceeds a dollar limit ($11,800 in 1994), indexed annually under a formula starting with the base amount of $500 in 1984. When the income level reaches this amount, such country is subject to a 25, rather than 50, percent competitive need import share limit on all eligible articles for up to the following two years. After that time, the country is no longer treated as a BDC.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement substitutes "high income" country as designated by the World Bank (approximately $8,600 per capita GNP in 1994), for the per capita GNP indexing formula in current law. Thus, if the President determines that a BDC has become a "high income" country as designated by the World Bank, the President is required to remove the country from eligibility under the program. Although the Conference agreement would reinstate a transition period of up to two years for country graduation from the GSP program, it would eliminate application of the 25 percent competitive need limit during this phase-out period.

6. DESIGNATION OF ELIGIBLE ARTICLES

a. Exempted products

Expired law

Under Section 503 of the Trade Act of 1974 the President may not designate any article as GSP eligible within the following categories of import-sensitive articles:

(a) textile and apparel articles which are subject to textile agreements;

(b) watches, except watches entered after June 30, 1989 that the President determines will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or U.S. insular possessions;

(c) import-sensitive electronic articles;

(d) import-sensitive steel articles;

(e) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not GSP eligible articles on April 1, 1984;

(f) import-sensitive semi-manufactured and manufactured glass products; and

(g) any other articles the President determines to be import-sensitive in the context of GSP.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates provisions of expired law, except, with respect to changes in the following statutory exemptions: in (a), it replaces the expired provision with exemption of textile and apparel articles which were not GSP eligible on January 1, 1994 and; in (e) it applies exemption to footwear and related articles which were not GSP eligible on January 1, 1995.

b. Three-year rule

Expired law

Each year the U.S. Trade Representative (USTR) conducts an interagency review process in which products can be added to or removed from the GSP program, or in which a country's compliance with eligibility requirements can be reviewed. The reviews are normally based on petitions filed by interested parties, but may also be self-initiated by USTR.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement prohibits consideration of an article for designation of eligibility for three years following formal consideration and denial of that article.

c. Least developing countries (LDDCs)

Expired law

No provision.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement provides specific authority for the President to designate any article that is the growth, product, or manufacture of a least-developed developing country (LDDC) as an eligible article with respect to imports from LDDCs, if, after receiving advice from the International Trade Commission, the President determines such an article is not import-sensitive in the context of imports from LDDCs. This authority does not apply to statutorily exempt articles—textiles and apparel, footwear and related articles, and watches. The President shall notify Congress at least 60 days in advance of LDDC designations. LDDC designations will be based on overall economic and discretionary criteria for country designation under the GSP program.

7. LIMITS ON PREFERENTIAL AUTHORITY

Expired law

Under Section 504 of the Trade Act of 1974, the President may withdraw, suspend, or limit GSP duty-free treatment with respect to any article or any country, except that no duty may be established other than the rate of duty which would otherwise apply (the MFN rate), after considering both the policy objectives and the discretionary BDC designation favors of the GSP program. The President shall withdraw or suspend the BDC designation of any country if he determines that, as a result of changed circumstances, the country would be barred from designation.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates expired law.

8. COMPETITIVE NEED LIMITS

Expired law

Whenever the President determines that exports by any BDC to the United States of a GSP eligible article during any year—

(a) exceed a dollar limit ($122 million in 1995) based on $25 million adjusted annually relative to changes in the U.S. GNP since 1974, or

(b) equal or exceed a 50 percent share of the total value of U.S. imports of the article,

then, no later than July 1 of the next year, such country is not treated as a BDC with respect to such article.

Not later than January 4, 1987, and periodically thereafter, the President must conduct a general review of eligible articles and, if he determines that a BDC has demonstrated a sufficient degree of competitiveness relative to other BDCs on any eligible article, then a lower competitive need dollar limit ($41.9 million in 1993, indexed annually from 1984 base) and 25 percent total import share limit apply.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reduces the basic competitive need limit to $75 million for any year beginning January 1, 1996, and substitutes a standard annual increase of $5 million for the indexing formula in expired law. The 50 percent import share limit is reinstated. The conference agreement deletes the general review requirements and the lower competitive need limits.

9. AUTHORITY TO WAIVE COMPETITIVE NEED LIMITS

Expired law

The President may waive the dollar and import share competitive need limits on any eligible article of any BDC if he (1) receives ITC advice on the likely effect of the waiver on any U.S. industry; (2) determines, based on the overall GSP and discretionary country designation considerations and the ITC advice, that the waiver is in the U.S. national economic interest; and (3) publishes the determination in the Federal Register.

The import share competitive need limit may be disregarded if total U.S. imports of the eligible article during the preceding year do not exceed a de minimis amount of $5 million adjusted annually ($13.4 million in 1994) according to changes in u.S. GNP since 1979. The import share competitive need limit does not apply to any eligible article if a like or directly competitive article was not produced in the United States as of January 3, 1985.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates the expired waiver authority. Under the conference Agreement the import share competitive need limit does not apply if the article is not produced in the United States as of January 1, 1995. The conference Agreement also reinstates the de minimis import provision, but substitutes $13 million in 1996 and a standard annual increase of $500,000 beginning January 1, 1996 for the indexing formula in expired law.

10. OTHER PROVISIONS REGARDING WAIVER AUTHORITY, REPORTS, AND AGRICULTURE EXPORTS

a. Waiver trade limits

Expired law

Under section 504(c)(3)(D) of the Trade Act of 1974, the President may not exercise the competitive need waiver authority in any year on imports of eligible articles exceeding:

(a) 30 percent of total GSP duty-free imports during the preceding year, or

(b) 15 percent of total GSP duty-free imports during the preceding year from BDCs which had (i) a per capita GNP of $5,000 or more, or (ii) exported to the United States

more than 10 percent of total GSP duty-free imports during that year.

The President may waive competitive need limits in certain cases where there has been a historical preferential trade relationship between the United States and that country.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates provisions in expired law regarding waiver trade limits, and historical preferences.

b. Report on workers rights

Expired law

The President must submit an annual report to the Congress on the status of internationally recognized workers' rights within each BDC.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reinstates expired law.

c. Agriculture exports

Expired law

Section 506 requires that appropriate U.S. agencies assist BDCs in developing and implementing measures designed to ensure that the production of agricultural sectors of their economies is not directed to export markets, to the detriment of the foodstuff production for their citizens.

House bill

No provision.

Senate bill

No provision.

Conference agreement

The conference agreement reinstates expired law.

11. PROVISIONS REGARDING TERMINATION AND EFFECTIVE DATES

Expired law

No duty-free treatment shall remain in effect after July 31, 1995.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement reauthorizes the program for one year, ten months, to terminate on May 31, 1997. The effective date of the extension of the GSP program is October 1, 1996. However, the conference agreement also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (1) of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and (2) that was made after July 31, 1995, and before January 1, 1996, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment. Further, the conference agreement provides that notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (1) of any article to which duty-free treatment under Title V of 1974 (as amended by this Title) would have applied if the entry had been made on or after October 1, 1996, and (2) that was made after December 31, 1995, and before October 1, 1996, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment. Although importers would be entitled to request such refunds after the date of enactment of the bill, reimbursement of duties would occur only after the beginning of fiscal year 1997 (October 1, 1996).

REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION

Present law

State law governs adoption and foster care placement. Many States permit race matching of foster and adoptive parents with children either in regulation, statute, policy, or practice. The Howard M. Metzenbaum Multiethnic Placement Act of 1994 ("Metzenbaum Act", Public Law 103-382) permits States to consider race and ethnicity in selecting a foster care or adoptive home, but States cannot delay or deny the placement of the child solely on the basis of race, color, or national origin.

Noncompliance with the Metzenbaum Act is deemed a violation of Title VI of the Civil Rights Act of 1964.

House bill

Section 553 of the Metzenbaum Act is repealed. In addition, Section 471 of the Social Security Act is amended to prohibit a State or other entity that receives Federal assistance from denying to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved. Similarly, so State or other entity receiving Federal funds can delay or deny the placement of a child for adoption or foster care in making a placement, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

Section 474 of the Social Security Act is amended to require the Secretary of the Department of Health and Human Services (HHS) to reduce the amount of Federal foster care and adoption funds provided to the State through Title IV-E if the State program is found in violation of this provision as a result of a review conducted under Section 1123 of the Social Security Act. States found to be in violation would have their quarterly funds reduced by 2 percent for the first violation, by 5 percent for the second violation, and by 10 percent for the third or subsequent violation.

Private entities found to be in violation of this provision for a quarter are required to return to the Secretary all federal funds received from the State during the quarter. Any individual who is harmed by a violation of this provision may seek redress in any United States district court. An action under this provision may not be brought more than two years after the alleged violation occurred.

Noncompliance with this provision constitutes a violation of Title VI of the Civil Rights Act of 1964. The Indian Child Welfare Act of 1978 is not affected by changes made in this title.

Effective date.—This provision applies upon enactment (except States must meet the State plan requirement provision of bill section 201(a) not later than January 1, 1997).

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment clarifies that the Secretary of HHS shall apply penalties in conformance with section 1123 procedures to include an opportunity for the State to adopt and implement a corrective action plan. The provision clarifies that penalties will be assessed on a fiscal year basis. The amendment limits to 25 percent the maximum amount the Secretary of HHS can reduce a State's grant in a quarter.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with modifications. If the State has failed to correct the violation within six months (or less, at the Secretary's discretion), the Secretary shall impose penalties. The amount of the graduated penalties or set at 2, 3, and 5 percent respectively. The total amount of penalties which can be applied in a fiscal year cannot exceed 5 percent of a State's total IV-E grant.

The Indian Child Welfare Act of 1978 is not affected by changes made in this title.

Effective date.—The provisions related to civil rights enforcement are effective upon enactment. The provisions related to State plan requirements are effective on January 1, 1997.

TITLE II

Senate Amendments 2 through 6: Senate amendments 2 through 6 made technical corrections in the section numbering in title II of the House bill. The House receded from its disagreement to Senate amendments 2 through 6 with technical changes to the House bill and other changes described in this statement.

1. EMPLOYEE COMMUTING FLEXIBILITY ACT

House bill

The House bill would clarify the Portal-to-Portal Act of 1947 to allow employers and employees to agree on the use of employer-provided vehicles to commute to and from work at the beginning and end of the workday, without the commuting time being treated as hours of work.

Senate amendment

Same.

Conference agreement

Follow House and Senate language.

2. MINIMUM WAGE INCREASE

House bill

The House bill would increase the minimum wage in two increments. Beginning July 1, 1996 the minimum wage would increase from $4.25 to $4.75, and beginning July 1, 1997 the minimum wage would increase from $4.75 to $5.15.

Senate amendment

Same.

Conference agreement

Beginning October 1, 1996, the minimum wage would increase from $4.25 to $4.75, and beginning September 1, 1997, the minimum wage would increase from $4.75 to $5.15. The conference agreement also makes a technical change to avoid retroactively increasing the minimum wage in Puerto Rico by also striking section 6(c) of the Fair Labor Standards Act.

3. COMPUTER PROFESSIONALS EXEMPTION

House bill

The House bill specifies that computer professionals who are paid at least $27.63 per hour (maintaining current law) are exempt from overtime wages.

Senate amendment

Same.

Conference agreement

Follow House and Senate language.

4. TIP CREDIT

House bill

The Fair Labor Standards Act (FLSA) currently contains a tip credit system whereby employers of tipped employees may count tips received by the worker for up to 50 percent of the employer's minimum wage obligation. In the event that an employee's cash wages and tips do not meet the statutory minimum wage, the employer must contribute the amount of wages necessary for the employee to make at least the minimum wage.

The House bill sets the cash wage paid by employers to tipped employees at $2.13 and allows tips to be counted toward the remainder of the minimum wage obligation. The employer would be required to make up any difference the minimum wage and the combination of $2.13 plus tips to ensure that each employee makes at least the minimum wage.

Senate amendment

Same.

Conference agreement

Follows House and Senate language except makes technical changes including the technical change of deleting the word "cash" before "wage" where it appears in paragraph (2).

5. OPPORTUNITY WAGE

House bill

The House bill allows employers to pay new hires under 20 years of age not less than $4.25 per hour for the first 90 days (calendar days—not days of work) after the employee is hired. The House bill contains protections for current workers by prohibiting employers from taking any action to displace any employee in order to hire a worker at the opportunity wage.

Senate amendment

Same.

Conference agreement

Follow House and Senate language.

ESTIMATED BUDGET EFFECTS OF THE CONFERENCE AGREEMENT RELATING TO THE REVENUE PROVISIONS OF H.R. 3448, THE "SMALL BUSINESS JOB PROTECTION ACT OF 1996,"

Fiscal Years 1996-2006

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
I. IDENTICAL PROVISIONS															
Small Business and Other Tax Provisions															
A. Small Business Provisions															
1. FICA tip credit:															
a. Provided for off-premises employees	1/1/97	---	-6	-14	-15	-16	-17	-18	-18	-19	-20	-21	-51	-68	-165
b. Clarification of effective date	[1]	*Negligible Revenue Effect*													
2. Clarify exemption from FICA taxes for certain fishermen and provide that exemption applies even if crew member receives de minimis amounts of cash payments	[2]	-1	-10	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-11	-11	-13
B. Provisions Relating to S Corporations															
1. Increase number of eligible shareholders	tyba 12/31/96	---	-5	-14	-16	-20	-22	-25	-28	-31	-35	-39	-55	-77	-235
2. Permit certain trusts to hold stock in S corporations	tyba 12/31/96	---	-2	-2	-2	-2	-2	-2	-2	-3	-3	-3	-8	-10	-23
3. Extend holding period for certain trusts	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
4. Financial institutions permitted to hold safe-harbor debt	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
5. Authority to validate certain invalid elections	tyba 12/31/82	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
6. Allow interim closing of the books	tyba 12/31/96	*Negligible Revenue Effect*													
7. Expand post-termination period and amend subchapter S audit procedures	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
8. S corporations permitted to hold S or C subsidiaries	tyba 12/31/96	---	-5	-9	-11	-13	-15	-17	-20	-23	-26	-29	-38	-53	-168
9. Treatment of distributions during loss years	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-1
10. Treatment of S corporations as shareholders in C corporations	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
11. Elimination of certain earnings and profits of S corporations	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
12. Treatment of certain losses carried over under at-risk rules	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
13. Adjustments to basis of inherited S stock	dda DOE	---	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]	[8]
14. Treatment of certain real estate held by an S corporation	tyba 12/31/96	---	-1	-1	-2	-2	-2	-2	-2	-2	-2	-2	-6	-8	-18
15. Transition rule for elections after termination	tyba 12/31/96	---	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[4]	[5]	[6]	[7]
16. Interaction of subchapter S changes except for ESOP and financial institution proposals	---	---	-3	-26	-32	-37	-38	-39	-40	-40	-40	-40	-98	-136	-335

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
Pension Simplification Provisions															
A. Simplified Distribution Rules															
1. Repeal of $5,000 exclusion of employees' death benefits	dda DOE	---	28	49	52	54	55	55	56	57	57	58	183	238	521
2. Simplified method for taxing annuity distributions under certain employer plans	asda 90 da DOE	---	22	28	28	29	29	29	30	30	31	31	107	136	287
3. Minimum required distributions	yba 12/31/96	---	-1	-4	-4	-4	-4	-4	-4	-4	-4	-4	-13	-17	-37
B. Increased Access to Retirement Savings Plans -															
1. Tax-exempt organizations eligible under section 401(k)	yba 12/31/96	---	-8	-22	-24	-25	-26	-28	-29	-30	-31	-31	-79	-105	-254
C. Nondiscrimination Provisions															
1. Repeal of family aggregation rules [9]	yba 12/31/96	---	[10]	[10]	Considered in Other Provisions								[10]	[10]	[10]
2. Modification of additional participation requirements	yba 12/31/96	Negligible Revenue Effect													
3. Definition of compensation for section 415 purposes	yba 12/31/97	---	---	-1	-1	-2	-2	-2	-2	-2	-3	-3	-4	-6	-18
4. Safe-harbor nondiscrimination rules for qualified cash or deferred arrangements and matching contributions [11]	yba 12/31/98	---	---	---	-45	-166	-171	-175	-180	-186	-191	-196	-211	-382	-1,309
D. Miscellaneous Provisions															
1. Plans covering self-employed individuals	yba 12/31/96	Negligible Revenue Effect													
2. Elimination of special vesting rule for multiemployer plans	yba 12/31/96	---	[3]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-4	-9
3. Distributions under rural cooperative plans	DOE	Negligible Revenue Effect													
4. Treatment of governmental plans under section 415	yba 12/31/94	Negligible Revenue Effect													
5. Uniform retirement age [9]	yba 12/31/96	---	[10]	[10]	Considered in Other Provisions								[10]	[10]	[10]
6. Contributions on behalf of disabled employees	yba 12/31/96	Negligible Revenue Effect													
7. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations	tyba 12/31/96	---	[3]	-1	-1	-1	-2	-2	-2	-2	-2	-2	-3	-5	-15
8. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act	[12]	---	-4	-4	-4	---	---	---	---	---	---	---	-12	-12	-12
9. Application of elective deferral limit to section 403(b) plans	tyba 12/31/95	Negligible Revenue Effect													
10. Increase section 4975 excise tax on prohibited transactions from 5% to 10%	ptoa DOE	---	2	4	4	4	4	4	4	4	4	4	14	18	38
11. Treatment of leased employees	yba 12/31/96	Negligible Revenue Effect													
12. Uniform penalty provision to apply to certain pension reporting requirements	1/1/97	No Revenue Effect													
13. Clarify that SECA does not apply to certain parsonage allowance income	ybbo/a 12/31/94	Negligible Revenue Effect													
14. Date of adoption of plan amendments	DOE	No Revenue Effect													
15. Require section 457 plan assets to be held in trust; transition rule for existing plans	DOE	---	-7	-21	-24	-25	-25	-26	-27	-28	-29	-30	-77	-102	-242

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
16. Multiple salary reduction agreements permitted under section 403(b)	tyba 12/31/95	Negligible Revenue Effect													
SUBTOTAL: Identical Provisions		---	-15	-54	-113	-242	-254	-268	-280	-295	-310	-323	-425	-679	-2,161
II. PROVISIONS AGREED UPON															
Small Business and Other Tax Provisions															
A. Small Business Provisions															
1. Increase in expensing limitation for small businesses to $18,000 for 1997, $18,500 for 1998, $19,000 for 1999, $20,000 for 2000, $24,000 for 2001, $24,000 for 2002, $25,000 for 2003 and thereafter [13]	tyba 12/31/96	---	-67	-180	-261	-331	-763	-938	-786	-646	-439	-265	-839	-1,602	-4,676
2. Treatment of storage of product samples	tyba 12/31/95	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	-2
3. Provide that certain charitable risk pools would qualify as charitable organizations under section 501(c)(3)	tyba DOE	---	[3]	-1	-1	-1	-1	-2	-2	-2	-3	-3	-3	-4	-16
4. Treatment of certain dues paid to agricultural or horticultural organizations	tyba 12/31/86	Negligible Revenue Effect													
5. Require purchasers of fish in excess of $600 in cash to provide information reports	12/31/97	---	---	5	9	10	10	11	11	11	12	12	24	34	91
6. Change related-party and maximum size requirements for first-time farmer industrial development bonds	bia DOE	---	-1	-6	-12	-17	-21	-26	-30	-34	-37	-40	-36	-57	-224
7. Clarify that newspaper carriers and distributors are independent contractors	spa 12/31/95	Negligible Revenue Effect													
8. Provide involuntary conversion treatment for Presidentially declared disaster areas	DDA 12/31/94	-6	-14	-10	-10	-10	-10	-10	-10	-10	-10	-10	-50	-54	-110
9. Provide 15-year depreciation for gas station/convenience stores	ppiso/a/b DOE	-7	-24	-37	-45	-50	-53	-53	-55	-61	-42	-25	-163	-209	-452
10. Leasehold improvements provision	lida 6/12/96	-12	-22	-19	-16	-13	-11	-7	-4	-2	1	4	-82	-81	-101
11. Worker classification:															
a. Clarification of Section 530 safe harbor	spa 12/31/96	---	[3]	[3]	[3]	[3]	[3]	-1	-1	-1	-1	-1	-1	-1	-6
b. Provide that if the taxpayer reclassifies independent contractors as employees, this change does not alter the application of the safe harbor for prior periods	pa 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[4]	[4]
c. Clarify "substantially similar position"	pa 12/31/96	Negligible Revenue Effect													
12. Allow certain teaching hospitals to provide tax-free housing to medical faculty	tyba 12/31/95	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[4]	[4]	[15]
B. Extension of Certain Expiring Provisions															
1. Extend the work opportunity tax credit, with modifications through 9/30/97 [16]	10/1/96	---	-116	-141	-82	-32	-12	-2	---	---	---	---	-371	-383	-385
2. Employer-provided educational assistance; extend for graduate education through 6/30/96; undergraduate education sunset 5/31/97	1/1/95	-68	-934	-103	---	---	---	---	---	---	---	---	-1,105	-1,037	-1,105
3. Permanent extension of FUTA exemption for alien agricultural workers [17]	1/1/95	-5	-3	-3	-3	-3	-3	-3	-3	-3	-3	-3	-17	-15	-35

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
4. R&E credit, with modifications through 5/31/97	7/1/96	-101	-331	-872	-208	-148	-77	-17	---	---	---	---	-1,660	-1,636	-1,754
5. Orphan drug tax credit through 5/31/97 with section 39 benefits	7/1/96	-6	-16	-1	-1	-1	-1	[3]	[3]	[3]	[3]	[3]	-25	-20	-26
6. Contribution of appreciated stock to private foundations through 5/31/97	7/1/96	-14	-104	-10	-4	---	---	---	---	---	---	---	-132	-118	-132
7. Extend section 29 binding contract date to 12/31/96 and placed-in-service date to 6/30/98 for biomass and coal	---	---	-8	-34	-60	-69	-65	-57	-55	-56	-58	-59	-171	-236	-522
8. Suspend excise tax on motorboat diesel through 12/31/97	DOE + 7 days	-4	-34	-9	---	---	---	---	---	---	---	---	-47	-43	-47
C. Provisions Relating to S Corporations															
1. Treat financial institutions that do not use the reserve method as eligible corporations	tyba 12/31/96	---	-1	-3	-5	-6	-8	-10	-12	-14	-15	-16	-15	-23	-90
2. Permit tax-exempts to be subchapter S shareholders with UBTI inclusion and ESOP benefit restriction	tyba 12/31/97	---	---	-3	-9	-11	-13	-15	-17	-19	-21	-23	-23	-36	-131
Pension Simplification Provisions															
A. Simplified Distribution Rules															
1. Repeal of 5-year income averaging for lump-sum distributions	tyba 12/31/99	---	74	77	108	78	70	44	17	15	---	---	337	407	483
B. Increased Access to Retirement Savings Plans -															
1. Establish SIMPLE pension plan	yba 12/31/96	---	-50	-76	-79	-81	-84	-87	-91	-94	-97	-101	-286	-370	-840
2. Increase availability of spousal IRAs	yba 12/31/96	---	-57	-168	-184	-195	-206	-219	-233	-248	-264	-281	-604	-810	-2,055
C. Nondiscrimination Provisions															
1. Simplified definition of highly compensated employees; employers can elect whether or not to apply a top 20% test [9]	yba 12/31/96	---	[15]	[15]	*Considered in Other Provisions*								[4]	[4]	[4]
D. Miscellaneous Provisions															
1. Treatment of Indian tribal governments under section 403(b)	cpb 1/1/95	*Negligible Revenue Effect*													
2. Allow waiver of 30-day waiting period for qualified plan distributions	pyba 12/31/96	*Negligible Revenue Effect*													
3. Repeal of combined plan limit	lyba 12/31/99	---	---	---	---	-72	-195	-201	-207	-213	-219	-226	-72	-267	-1,333
4. 3-year waiver of excess distribution tax	1/1/97	---	42	44	47	32	---	---	---	---	---	---	165	165	165
5. Direct IRS to develop model forms for qualified domestic relations orders ("QDRO") and spousal consent provisions	DOE	*Negligible Revenue Effect*													
6. Permit volunteer firefighters to make deferrals under section 457 (limited to $3,000 per year)	do/a 1/1/97	---	-2	-5	-7	-9	-11	-13	-16	-18	-20	-23	-23	-34	-124
7. Alternative nondiscrimination rules for certain plans that provide for early participation	1/1/99	---	---	---	-6	-17	-18	-19	-19	-20	-20	-20	-23	-41	-139
8. Clarify definition of plan assets	1/1/75	*Negligible Revenue Effect*													
9. Church pension plan simplification:															
a. Allow pension plan coverage for self-employed clergy	yba 12/31/96	*Negligible Revenue Effect*													

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
b. Allow church pension plans to use the new definition of highly compensated employee in the bill - Treasury safe harbor	yba 12/31/96	Negligible Revenue Effect													
c. Allow payroll deduction of pension contributions for clergy on foreign missions	tyba 12/31/96	Negligible Revenue Effect													
10. Grant IRS the discretion to waive pension liquidity shortfall excise tax	[12]	---	-4	-3	-2	-1	[3]	[3]	[3]	[3]	[3]	[3]	-11	-11	-11
Foreign Simplification															
1. Repeal of excess passive assets provision (section 956A)	---	---	-11	-22	-29	-36	-41	-45	-51	-57	-64	-71	-98	-139	-427
Other Provisions															
1. Exempt from diesel dyeing requirement any States exempt from Clean Air Act dyeing requirement	fcqa DOE	---	[3]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-2	-3	-6
2. Application of common paymaster rules to certain agency accounts at State universities [17]	rpa 12/31/96	---	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]	[14]
3. Exempt imported recycled halons from ozone-depleting chemicals tax	cia 12/31/96	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-4	-9
4. Suspend excise tax on ozone depleting chemicals used in metered dose inhalers	DOE + 7 days	---	-12	-8	-8	-2	---	---	---	---	---	---	-30	-30	-30
5. Alaska Power Authority:															
a. Authorize tax-exempt bonds for purchase of Alaska Power Authority	bia DOE	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-10
b. Proceeds from asset sale; foregone receipts from electricity sale [18]	DOE	---	76	-7	-7	-7	-7	-7	-7	-7	-7	-7	55	48	13
6. Allow for tax-free conversion of common trust funds to mutual funds	ta 12/31/95	-4	-9	-8	-8	-8	-8	-8	-9	-9	-9	-9	-37	-41	-89
7. Clarify that State prepaid tuition plans are tax-exempt entities; clarify OID rules	tyba 12/31/95	Negligible Revenue Effect													
Revenue Offsets															
1. Possessions tax credit: Wage credit companies - 6 years of present law, thereafter subject to income cap, followed by 4-year phaseout with modified base period, then repealed; Income companies - 2 years of present law followed by 8 years subject to income cap, then repealed; QPSII - repealed later of taxable years beginning after 12/31/95 or earnings after 6/30/96 with estimated payment adjustment; permit base adjustment for asset acquisition	tyba 12/31/95	111	697	586	589	490	507	736	1,105	1,378	1,678	2,686	2,473	2,869	10,563
2. Repeal 50% interest income exclusion for financial institution loans to ESOPs [19]	lma DOE	10	64	105	144	182	220	256	292	327	360	327	505	715	2,287

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
3. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBTI, with amendment	---	1	3	4	4	5	5	5	6	6	7	8	17	21	54
4. Corporate accounting - reform of income forecast method	ppisa 9/13/95	32	69	29	13	14	16	19	22	28	31	35	157	141	308
5. Modify exclusion of damages received on account of personal injury or sickness	ara DOE	3	50	55	59	61	64	68	71	74	77	80	228	289	662
6. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks	vpa DOE	1	15	19	19	19	19	19	19	19	19	19	73	91	187
7. Phase out and extend luxury automobile excise tax through 12/31/02	so/a DOE + 7 days	-4	-56	-105	-132	124	183	140	32	---	---	---	-173	14	182
8. Modify two county tax-exempt bond rule for local furnishers of electricity or gas; prohibit new local furnishers (with current service areas grandfathered)	[20]	---	---	3	-3	-6	-4	-3	[3]	7	13	15	-5	-9	23
9. Reinstate Airport and Airway Trust Fund excise taxes through 12/31/96, with (1) exemption for fixed-wing emergency medical aircraft, and mining, oil, and gas industry helicopters for flights not using FAA services; (2) clarification of collection point; and (3) clarification of tax treatment of travel on corporate aircraft in affiliated groups	tp7data DOE	28	1,528	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	1,556	1,528	1,555
10. Modify basis adjustment rules under section 1033	ica DOE	---	1	5	9	14	20	29	37	46	56	64	29	49	281
11. Treatment of certain insurance on retired lives	tyba 12/31/95	---	2	1	-2	5	2	[3]	10	-5	2	-3	6	8	12
12. Modified guaranteed contracts	tyba 12/31/95	---	-3	3	2	2	-1	-1	[3]	[3]	[3]	[3]	5	4	1
13. Tax-free treatment of contributions in aid of construction for water utilities; change depreciation for water utilities	[21]	---	-21	-9	-3	11	24	35	45	55	64	73	-22	2	274
14. Permit scholarship funding corporation to convert to taxable corporation	1/1/97	---	3	6	8	10	10	9	7	6	5	4	26	36	68
15. Apply math error rules for dependency exemptions and filing status when correct taxpayer identification numbers are not provided	rd 30 da DOE	---	133	272	262	249	242	234	226	217	209	201	916	1,158	2,245
16. Provide for flow through treatment for Financial Asset Securitization Investment Trusts (FASITs)	9/1/97	---	---	92	48	8	-3	-9	-14	-19	-25	-32	148	146	47
Technical Corrections															
1. Luxury excise tax, and other technical corrections [13]	---	14	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	14	[3]	13

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
Additional Provisions															
1. Extend GSP through 5/31/97 [17] [22]	---	---	-817	---	---	---	---	---	---	---	---	---	-817	-817	-817
2. $5,000 nonrefundable adoption credit and employer-provided assistance exclusion;$6,000 special needs; non-special needs sunset after 2001; AGI phaseout beginning at $75,000	tyba 12/31/96	---	-19	-204	-332	-355	-366	-348	-222	-139	-129	-119	-910	-1,276	-2,234
3. 6 month delay of electronic funds transfer	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
4. Remove business exclusion for energy subsidies provided by public utilities	tyba 12/31/96	---	63	100	104	107	109	111	113	115	116	117	374	483	1,055
5. Repeal bad debt reserve deduction for thrift institutions, with residential loan test for 1996 and 1997	tyba 12/31/95	47	111	216	280	277	272	260	247	111	36	29	931	1,156	1,886
6. Modify treatment of foreign trusts	[23]	52	143	171	180	188	197	206	214	223	245	260	734	879	2,079
NET TOTALS		67	316	-316	250	160	-269	-190	347	663	1,135	2,271	471	136	4,413

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.
Enactment date is assumed to be August 1, 1996.

Legend for "Effective" column:
ara = amounts received after
asda = annuity starting date after
bia = bonds issued after
cia = chemicals imported after
cpb = contracts purchased before
dda = decedents dying after
DDA = disasters declared after
do/a = deferrals on or after
DOE = date of enactment
fcqa = first calendar quarter after
ica = involuntary conversions after
lida = leasehold improvements disposed of after
lma = loans made after
lyba = limitation years beginning after
pa = periods after
ppisa = property placed in service after
ppiso/a/b = property placed in service on, after, or before
ptoa = prohibited transactions occurring after
pyba = plan years beginning after
rd 30 da = returns due 30 days after
rpa = remuneration paid after
so/a = sales on or after
spa = services performed after
ta = transfers after
tyba = taxable years beginning after
tp7data DOE = tickets purchased 7 days after date of enactment for travel 7 days after date of enactment
yba = years beginning after
ybbo/a = years beginning before, on, or after
vpa = vehicles purchased after
90 da DOE = 90 days after date of enactment

[1] Effective as if included in the Omnibus Reconciliation Act of 1993.
[2] The provision applies to remuneration paid after 12/31/94, and also is effective with respect to remuneration paid after 12/31/84, and before 1/1/95, unless the payor treated such remuneration (when paid) as being subject to FICA taxes.
[3] Loss of less than $500,000.
[4] Loss of less than $5 million.
[5] Loss of less than $15 million.
[6] Loss of less than $20 million.
[7] Loss of less than $30 million.

[Footnotes for Table #96-0 218 appear on the following page]

Footnotes continued:

[8] Gain of less than $1 million.
[9] Revenue effect after 1/1/99 included in the revenue estimate for the safe harbor provision due to interactions between this provision and Item II. Pension C.4.
[10] Negligible revenue effect.
[11] This provision considers interaction effects of SIMPLE retirement plan provisions (Items I. Pension C.1, I. Pension D.5, and II. Pension C.1).
[12] Effective as if included in the General Agreement on Tariffs and Trade of 1994.
[13] The technical correction relating to expensing is included in the increase in expensing limitation provision (Item II. Small Business A.1).
[14] Loss of less than $1 million.
[15] Loss of less than $10 million.
[16] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include enterprise zone/community youth, welfare cash recipients, veteran foodstamp recipients, and 18 - 24 year olds living in a household receiving food stamps for a period of at least 6 months on the date of hire without pre-certification; 400 hour work requirement; 21 day certification requirement.
[17] Estimates provided by the Congressional Budget Office.
[18] Estimate provided by the Congressional Budget Office. Negative numbers indicate that Federal outlays will increase; positive numbers indicate that Federal outlays will decrease.
[19] The repeal would not apply to loans made pursuant to a binding contract entered into before 6/10/96.
[20] Effective generally date of enactment; placed in service before 1/1/97 for limitation on new local furnishers.
[21] Effective for amounts received after 6/12/96 and property placed in service after 6/12/96 with the exception of certain property subject to a binding contract before 6/10/96.
[22] Amounts are payable after 9/30/96.
[23] Various effective dates depending on provisions.

From the Committee on Ways and Means, for consideration of the House bill (except for title II) and the Senate amendment numbered 1, and modifications committed to conference:

BILL ARCHER,
PHIL CRANE,
BILL THOMAS,
SAM GIBBONS,
CHARLES B. RANGEL,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of secs. 1704(h)(1)(B) and 1704(l) of the House bill and secs. 1421(d), 1442(b), 1442(c), 1451, 1457, 1460(b), 1460(c), 1461, 1465, and 1704(h)(1)(B) of the Senate amendment numbered 1, and modifications committed to conference:

WILLIAM F. GOODLING,
CASS BALLENGER,

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title II of the House bill and the Senate amendments numbered 2–6, and modifications committed to conference:

WILLIAM F. GOODLING,
H.W. FAWELL,
FRANK RIGGS,
WILLIAM L. CLAY,
MAJOR R. OWENS,
MAURICE HINCHEY,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:

NANCY LANDON KASSEBAUM,
EDWARD M. KENNEDY,
JIM JEFFORDS,

From the Committee on Finance:

BILL ROTH,
JOHN H. CHAFEE,
CHUCK GRASSLEY,
ORRIN G. HATCH,
AL SIMPSON,
LARRY PRESSLER,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
DAVID PRYOR,
JOHN D. ROCKEFELLER IV,
Managers on the Part of the Senate.

AMERICAN PEOPLE WANT LAW ENFORCEMENT TO HAVE TOOLS IT NEEDS TO FIGHT TERRORISM

Mr. CARDIN. Mr. Speaker, the American people are shocked and outraged over the tragedies of TWA Flight 800 and at the Olympic Park.

The American people want us to show determination and common sense in giving our Nation's law enforcement community the tools it needs to fight terrorism.

One proposal is to put chemical markers, or taggants, in gun powder to help the FBI identify the vicious cowards responsible for bombings.

What sensible person would side with the bombers and against the FBI? We have a chance, before we leave this week, to do what the American people would do if they could vote themselves.

The President has asked us to pass this antiterrorism proposal. Unfortunately, the long arm of the National Rifle Association has reached into this House and prevented us from even taking the issue up.

It is time for this House to stand with the American people, and stand up to the NRA. Let's pass meaningful antiterrorism legislation.

PRESIDENT CLINTON FINALLY COMES AROUND TO TRUE HEALTH CARE REFORM

Mr. BALLENGER. Mr. Speaker, good news for all Americans today. Not only has President Clinton agreed to sign the bipartisan welfare reform bill, he has said he will also sign the bipartisan health care reform bill.

With the enactment of the health care bill, this commonsense Congress is giving Americans genuine health care reform without a government takeover. The bill establishes medical savings accounts, fights fraud and abuse, provides a long-term care insurance deduction, allows the self-employed to deduct 80 percent of health care costs, and allows people the freedom to change jobs without losing their health care coverage.

Mr. Speaker, I'm glad President Clinton has finally come around. True health care reform is what the American people want.

PUTTING AMERICA AGAINST ITS OWN IMMIGRANT ROOTS

Mr. RICHARDSON. Mr. Speaker, another Democratic initiative, health care and insurance reform, will soon become law, affecting millions of Americans. The Kennedy-Kassebaum bill, which reforms insurance portability and preexisting conditions in insurance, will permit us to go home and say, rightfully, that this is not a do-nothing Congress.

But along with same-sex marriage, abortion, and illegal immigration, Republicans are looking for another wedge issue to divide the country and get some votes. They have found it in "English Only," an initiative that puts America against its own immigrant roots and the sweeping tides of history.

□ 1015

It tells the billions that are watching the Olympics in Atlanta that America is saying that any language besides English is not important. "English Only" is bad for business, since most of our commerce is done in other languages. It is bad for tourism. It is a bad nativist, isolationist initiative that the Congress should reject summarily.

CONGRESS ACTS TO MAKE ENGLISH OUR OFFICIAL LANGUAGE

Mr. ROTH. Mr. Speaker, today is a great day for America. We are finally going to address an issue that the American people have been asking us to address for a long time, like the 45,000 people, 97 percent of the people who called in to USA Today in one weekend who said let us make English our official language.

Winston Churchill said a common language is one of the Nation's most priceless inheritances, and as an American I am delighted to say today that we are going to address this issue. English is a legacy for you and for me. No matter what our background or ethnic group, we all want to pass on this legacy for posterity so we can remain one Nation, one people, one language.

We Americans are from every corner of the globe. We represent every ethnic group, every religious group, every nation. But we are one nation, one people. Why? Because up to now we have had a wonderful commonality and today we are going to make English our official language so that we can respect all cultures, but also reaffirm our common bond and unifying force, the English language.

MEXICAN DRUG TRAFFICKING TO AMERICA MUST BE STOPPED

Mr. TRAFICANT. Mr. Speaker, a former Mexican drug agent says the Mexican Government is so corrupt that Mexican drug agents regularly escort massive drug shipments to America's borders. He further said Mexican drug agents are nothing more than bodyguards for drug traffickers to America.

Mr. Speaker, are you surprised? I am not. Everybody knows Mexico's war on drugs is a joke and America's war on drugs is a comedy of errors.

Think about it. When an 8-year-old can find brown Mexican heroin, Mexican cocaine, and Mexican marijuana on any street corner of America, something is not only wrong, somebody in high places, both in Mexico and in Washington, is getting awfully rich.

Mr. Speaker, I say it is time to deploy troops to the border and cut off aid to Mexico until they stop flooding our shores with dope. Think about it, Congress.

THANK YOU, MR. PRESIDENT, FOR SUPPORTING WELFARE REFORM

Mr. BARTLETT of Maryland. Mr. Speaker, it's been a 2-year struggle, but I welcome President Clinton's support for the bipartisan effort by the 104th Congress to save generations of Americans from the poverty trap of the failed welfare system.

These commonsense welfare reforms will end welfare as a way of life.

These commonsense welfare reforms will ensure that able-bodied citizens between the ages of 18 and 50 without children must work in order to get welfare benefits.

These commonsense welfare reforms will help preserve families and give them a helping hand to self-sufficiency instead of discouraging marriage and encouraging illegitimacy.

These commonsense welfare reforms will end the tyranny of Washington bureaucrats preventing our State Governors from instituting innovative programs to help their neediest citizens become self-sufficient.

Most important, these commonsense welfare reforms will help save children, communities, and cities from the horrific cycle of poverty and violence which has destroyed so many lives.

Welfare reform is a victory for all Americans.

MUCH-NEEDED HEALTH CARE REFORM IS FINALLY HERE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, finally, almost a year to the day that it was introduced, we are prepared to pass the Kennedy health care reform bill. This much-needed legislation will provide millions of Americans with health insurance through greater portability and other needed reforms.

And to think that this day almost never was. In spite of the vote of 100 to 0 in the Senate, it took Democrats, constantly pressuring the Republicans, to get to where we are today.

The Republicans were prepared to let this bill languish in the Senate, but we applied the pressure here, and more important the American people applied the pressure all across this country, and the Republicans were forced to act.

Imagine, forced to enact legislation that would help working families be able to maintain their insurance, to prevent insurance companies from discriminating based on preexisting conditions.

Mr. Speaker, we are sent here to do the people's business and to work on behalf of families in this country. The bottom line is that although some may have gotten here kicking and screaming, they are here. We will pass health care legislation today.

PASSAGE OF WELFARE REFORM MARKS HISTORIC DAY FOR CONGRESS

Mr. LEWIS of California, Mr. Speaker, yesterday was a historic day for the U.S. Congress. The passage of the Gingrich-Dole Welfare Reform Act provides a dramatic shifting of the direction of the ship-of-state, a shift away from welfare, from a growing Federal bureaucracy and ever expanding Federal welfare spending.

And as the ship turns, it will move toward less dependency upon Government, toward private opportunity and independence.

The welfare reform effort passed yesterday was initiated by Speaker NEWT GINGRICH and majority leader BOB DOLE. Speaker GINGRICH and his committees crafted the bill and worked tirelessly for its passage. And only yesterday, Speaker GINGRICH successfully got a commitment from President Clinton to sign it.

So while Speaker GINGRICH will share a piece of the credit for the Gingrich-Dole reform package with the President, yesterday will go down as a historic success for the new Republican majority in Congress.

RAISING THE MINIMUM WAGE NOW A POSSIBILITY

Mr. POMEROY. Mr. Speaker, this morning I rise to give credit to a small brave group of House Republicans that will join House Democrats and make it possible to at least raise the minimum wage. We in the House minority think that $4.25 an hour is not enough to live on. We know that with the minimum wage at its lowest purchasing point in 40 years, the time to act is now.

Unfortunately, the rigid, extreme opposition of the House majority, most of the Members and their leadership, have made it impossible to act before this point. In fact, the House majority leadership has said that they ought to eliminate the minimum wage, not raise it.

Well, a few Republicans working with us in the House minority are going to create a bipartisan majority to raise the minimum wage. I admire those House Republicans that took on their leadership on this one. They have made it possible to do something very important for working Americans.

ELECTION YEAR POLITICS

Mr. KINGSTON. Mr. Speaker, aren't election year politics fun? Here yesterday President Clinton, following Bob Dole's lead, agreed to sign the Republican welfare bill. And then following Clinton, who was following Dole, 68 Democrats changed their vote from less than a month ago to pass this bill on an overwhelming bipartisan basis.

Then, in the paper today Clinton is going to support the Hastert-Kassebaum Republican health care bill. Right under that, President Clinton is going to support the Republican clean drinking water bill. Add these to the fact that this party and this Congress has passed the line-item veto, securities reform litigation, a telecommunications bill, Social Security earnings limitation increase, lobbyist reform, a gift ban and the dissolving of 28 different committees and subcommittees. This Republican Party has made in this Congress a significant change in moving the country in the direction of less government. Thank goodness for election year politics.

GOOD HEALTH CARE IMPORTANT, BUT ALSO A SECURE NATION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am so grateful that I am able to tell one of my constituents who called in yesterday to talk of a sick wife who lost her job that the Democrats have prevailed and we do have a good health care bill that will allow portability and not take into consideration preexisting condition.

But I am saddened about my Republican colleagues, so dominated by the National Rifle Association, that after the TWA tragedy and the Atlanta tragedy we will not give law enforcement officers the right tools, such as tagants, to determine who planted the bomb? Why? Why? Because the NRA dominates this Republican Congress, because they believe in following their leaders at the National Rifle Association.

I am grateful that we may get good health care, but I am saddened that we will not have a secure Nation for all of our citizens. Why have we not had hearings on terrorism, domestic and international? Why? Because the Republicans have not set it on the agenda.

I hope America will rise up and determine that we must have, yes, good health care for all of our citizens, but we must also have a safe, secure Nation. We must give law enforcement the tools to fight terrorism and hold hearings on terrorism in America.

PEOPLE NEED HEALTH CARE SECURITY

Mr. HASTERT. Mr. Speaker, I rise today to announce to the American people and to this body that the score is not exactly an Olympic score, but it is big Government, big obtrusive Government, 0, the American people, 2.

That is a good trend, and we hope to raise and make that score even spread, but with the passage of welfare reform and, today, health care reform, we have given the American people something on a bipartisan basis, mainly because some people in this Congress have stood up and said there is a principle, there are some things we could do.

People need to have health care security. We need to make health care portable so a mother who loses her job, with an asthmatic child, can go and get health care at the next stop, at the next job she picks up; that a father who is locked into a job that he has and a wife with a heart condition will move on to a better job because there is portability.

And, yes, we do give American families choice, choice through the medical savings account to choose the doctor they want, to choose the health care

they want, and if they do not spend that money they get to keep it.

MEDICARE

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

Ms. MCKINNEY. Mr. Speaker, gripped by the fear of losing control over the first Republican Congress in 40 years, NEWT GINGRICH and his legions are trying to convince the public that they did not cut Medicare to pay for tax breaks to the wealthy.

On October 26, however, Speaker GINGRICH boasted about Republican efforts to weaken fee-for-service Medicare to the point where it would, quote, "Wither on the vine."

And in an attempt to back away from that statement, Speaker GINGRICH said that he meant the health care financing administration would wither on the vine. The Los Angeles Times, however, reported that Speaker GINGRICH's spokesman, Tony Blankley, said that, quote, "GINGRICH's comments were consistent with the Republican belief that most seniors would voluntarily choose to leave the traditional Medicare fee-for-service system in favor of HMO's."

Now that's the real scoop on NEWT GINGRICH and Medicare.

Think about it, when have you known the Speaker to not say what he means and mean what he says.

CONFERNCE REPORT ON HEALTH CARE REFORM

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

Mr. CHRYSLER. Mr. Speaker, when Republicans took over the Congress, we proved to the Washington liberal establishment that politicians can come here and keep their word. We proved that we could make a difference in the lives of the American people.

The events of this week are proof that this Congress has been one of the most productive in a generation.

Yesterday, Bill Clinton said that he would sign our commonsense welfare reform bill that we will send him later this week. It is a good bill. It is genuine reform of the broken welfare system.

Today, the House will consider the conference report on health care reform. This bill will give health care security to working Americans. It establishes medical savings accounts, which I have had for 3 years, fights fraud and abuse, and ends job lock.

Mr. Speaker, this Congress is making a difference. We are providing the commonsense changes that the American people have demanded for years.

DEMOCRATIC AGENDA ALIVE AND WELL

Mr. WYNN. Mr. Speaker, good morning. Despite my GOP friends' spin, I have to tell you the Democratic agenda is alive and well in America and American citizens are better for it, because it is the Democrats who have pushed for health care reform and for the minimum wage.

On health care reform, the Kennedy-Kassebaum health insurance reform bill will be on the floor today, and we will be able to provide Americans with health insurance when they change jobs. We will be able to ensure that Americans will not be prohibited from getting health insurance because of preexisting conditions, such as the fact that your child may have asthma or someone has a longstanding hip injury who is an older member of your family.

□ 1030

That is important and that was a Democratic initiative. We are also going to take up tomorrow the minimum wage. Republicans have said they would fight it with every fiber of their being. The fact is the Democrats stood for decent wages and decent working conditions. Forty percent of the people who earn the minimum wage are bread winners for their family. Fifty-eight percent of the people who earn the minimum wage are women. We need decent wages in America.

Mr. Speaker, the Democratic agenda is alive and well.

CHECKING ON NAFTA

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

Mr. WELDON of Pennsylvania. Mr. Speaker, the debate over the success of NAFTA continues. Two years after this legislation became law, we look back and see whether or not it has been successful, and there is still disagreement.

Tomorrow I will introduce bipartisan legislation, Mr. Speaker, however, that all of us can join together on. My legislation, the NAFTA check bill, will require the President of the United States to certify each year to the Congress whether or not those side agreements that he told us would raise up the workers standards in Mexico and would enforce tough environmental laws in Mexico are actually working.

Mr. Speaker, I ask our colleagues to join with us to allow this President each year to certify to us as to whether or not what he told us to get our votes for NAFTA has in fact been occurring for the past 2 years. That is an annual certification as to environmental protection and as to worker standards in the state of Mexico as parties to the NAFTA agreement.

I urge our colleagues to sign as cosponsors when this bill is dropped tomorrow. We can move it quickly in September to get passage in this body and the other body.

TESTING SINCERITY ON WELFARE REFORM

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

Mr. DURBIN. Mr. Speaker, yesterday was a historic day. The passage of welfare reform is long overdue. If we listen to the speeches on this floor, we heard Member after Member stand up and say we need to put people to work. The first test of sincerity on those speeches will come today or tomorrow on the question of whether we raise the minimum wage in America.

Think about how many millions of Americans are struggling today at a minimum wage job trying to stay off welfare. The Republican leadership, Mr. GINGRICH and Mr. Dole, have both resisted our efforts to raise the minimum wage so people who are doing the personally responsible thing for their families will receive a decent wage. Those coming off welfare because of reform need to have an opportunity to move to a job where they can make a living.

The first test of sincerity on the welfare reform bill is whether we will leave this week defying the Republican leadership, Mr. Dole and Mr. GINGRICH, and increase the minimum wage. If we fail to do that, the critics can just say that this welfare reform debate was political hot air.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; The Committee on Government Reform and Oversight; the Committee on International Relations; the Committee on the Judiciary; the Committee on Resources; the Committee on Science; the Committee on Small Business; the Committee on Transportation and Infrastructure; and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. NETHERCUTT). Is there objection to the request of the gentleman from Kansas?

There was no objection.

CONFERENCE REPORT ON H.R. 3754, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1997

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 3754) making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PACKARD. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the bill (H.R. 3754) making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes.

The Clerk read the title of the bill.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 3754 and that they may include tabular and extraneous material.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, July 31, 1996, at page 20759.)

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from California [Mr. PACKARD] and the gentleman from Arkansas [Mr. THORNTON] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. PACKARD].

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

This is the conference report on the legislative branch appropriations bill. It will cut from the 1996 program level over $22 million and will keep us on the glidepath to a balanced budget.

HIGHLIGHTS—H.R. 3754 CONFERENCE REPORT

CONTINUING PROGRAM OF OVERALL SAVINGS

$22.3 million below 1996 program level (budget authority); $48.6 million below in outlays.

Two-year reduction of $226 million in BA and $236 million in outlays.

Cut funding for 616 jobs in this bill; two year total of 1643 FTE'S=6.4 percent of legislative workforce.

House budget down by $45 million and House staff down by 854 FTE's over 96–97 period.

If entire Federal budget were reduced proportionately, Federal budget would show a $100 billion surplus (based on closed model extrapolation).

FRANKED MAIL REFORM

Make permanent law the 90-day before election ban on unsolicited mass mailings.

MOVING TOWARD CYBERCONGRESS

$211 million provided for operations and investments in computers and telecommunications—12.5 percent of entire legislative budget (Senate excluded).

Expanding public access through Internet to public laws, Congressional debate, Congressional schedule, and other legislative matter via THOMAS and GPO ACCESS.

Established a legislative branch-wide information system working group—under guidance of House Oversight Committee and Senate Rules Committee.

Directed a study of audio broadcasts of House proceedings.

STREAMLINING

Completing two-year program to downsize General Accounting Office by 25 percent.

Eliminated funding for jobs not being utilized by several agencies.

Converting permanent edition of bound Congressional Record, a 26 volume document, to CD–ROM: will expedite availability by at least 2 years, enhance the research capabilities of the document, and save over $1 million annually.

Converting Congressional Serial Set, a 60 volume document to CD–ROM: will expedite availability by several years, enhance its use as a research tool, and save over $1 million annually.

Clerk of the House will expand capability of House to use electronic formats for legislative documents to reduce printing and distribution costs.

Have deferred to authorizing Committees the Public Printer's plan to convert Federal Depository Program to electronic format.

INCREASING USE OF PRIVATE SECTOR

Outsourcing custodial work at Ford House Office Building; directed Architect to transfer affected staff to comparable jobs at comparable pay.

Conducting studies of other outsourcing possibilities at Power Plant, care and maintenance of other Congressional buildings.

Continue public-private sector collaboration on National Digital Library.

Public Printer to determine potential for privatizing GPO plant workload.

Looking for alternatives for operating the Botanic Garden.

CONFERENCE REPORT COMPARED TO HOUSE BILL

Added $1.1 million for the Capitol Police.

Added $244,000 for CBO.

Added $1 million for the Library of Congress to pay for a Management study.

Added $750,000 for a new backup power supply for the Library's computers.

$250,000 reduction for the Joint Economic Committee; conferees believe the need for this joint committee should be reviewed with the idea that it will be phased out in the future. In the meantime, funding continues at a reduced level.

General Provisions; the bill contains a provision that will bring greater standardization to legislative information processes.

The Capitol Police will be able to elect to use comp time in lieu of paid overtime.

There is a provision that will remove copyright prohibitions from reproduction and distribution of braille and other special materials for the blind and other readers with disabilities.

COMPARED TO 602(B)'S

$15 million below Budget Authority target.

$17 million below Outlay target.

CONFERENCE AGREEMENT COMPARED TO ITEMS IN ORIGINAL HOUSE BILL

The House bill sent to the Senate was $37.4 million below 1996 in BA and $52.5 million below in outlays.

The conference agreement is $34.4 million below in BA and $48.5 below in outlays.

FY 1997 LEGISLATIVE BRANCH APPROPRIATIONS ACT (H.R. 3754)

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - CONGRESSIONAL OPERATIONS						
SENATE						
Expense Allowances						
Expense allowances:						
Vice President	10,000	10,000		10,000	10,000	
President Pro Tempore of the Senate	10,000	10,000		10,000	10,000	
Majority Leader of the Senate	10,000	10,000		10,000	10,000	
Minority Leader of the Senate	10,000	10,000		10,000	10,000	
Majority Whip of the Senate	5,000	5,000		5,000	5,000	
Minority Whip of the Senate	5,000	5,000		5,000	5,000	
Chairman of the Majority Conference Committee	3,000	3,000		3,000	3,000	
Chairman of the Minority Conference Committee	3,000	3,000		3,000	3,000	
Subtotal, expense allowances	56,000	56,000		56,000	56,000	
Representation allowances for the Majority and Minority Leaders	30,000	30,000		30,000	30,000	
Total, Expense allowances and representation	86,000	86,000		86,000	86,000	
Salaries, Officers and Employees						
Office of the Vice President	1,513,000	1,570,000		1,513,000	1,513,000	
Office of the President Pro Tempore	325,000	325,000		325,000	325,000	
Offices of the Majority and Minority Leaders	2,195,000	2,377,000		2,195,000	2,195,000	
Offices of the Majority and Minority Whips	656,000	682,000		1,156,000	1,156,000	+500,000
Conference committees	1,992,000	2,068,000		1,992,000	1,992,000	
Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority	360,000	367,000		384,000	384,000	+24,000
Policy Committees	1,930,000	2,002,000		1,930,000	1,930,000	
Office of the Chaplain	192,000	234,000		234,000	234,000	+42,000
Office of the Secretary	12,128,000	12,959,000		12,714,000	12,714,000	+586,000
Office of the Sergeant at Arms and Doorkeeper	31,889,000	34,037,000		34,037,000	34,037,000	+2,148,000
Offices of the Secretaries for the Majority and Minority	1,047,000	1,135,000		1,135,000	1,135,000	+88,000
Agency contributions and related expenses	15,500,000	18,482,000		17,000,000	17,000,000	+1,500,000
Total, salaries, officers and employees	69,727,000	76,238,000		74,615,000	74,615,000	+4,888,000
Office of the Legislative Counsel of the Senate						
Salaries and expenses	3,381,000	3,447,000		3,447,000	3,447,000	+66,000
Office of Senate Legal Counsel						
Salaries and expenses	936,000	960,000		936,000	936,000	
Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate: Expenses allowances	12,000	12,000		12,000	12,000	
Contingent Expenses of the Senate						
Inquiries and investigations	66,395,000	70,561,000		69,561,000	69,561,000	+3,166,000
Expenses of United States Senate Caucus on International Narcotics Control	305,000			305,000	305,000	
Secretary of the Senate	1,266,000	1,266,000		1,511,000	1,511,000	+245,000
Sergeant at Arms and Doorkeeper of the Senate	61,347,000	65,931,000		65,931,000	65,931,000	+4,584,000
Miscellaneous items	6,644,000	6,791,000		6,791,000	6,791,000	+147,000
Senators' Official Personnel and Office Expense Account	204,029,000	226,825,000		208,000,000	208,000,000	+3,971,000
Office of Senate Fair Employment Practices	778,000					-778,000
Settlements and Awards Reserve	1,000,000	1,000,000				-1,000,000
Stationery (revolving fund)	13,000	13,000		13,000	13,000	
Official Mail Costs						
Expenses	11,000,000	36,500,000		10,000,000	10,000,000	-1,000,000
Total, contingent expenses of the Senate	352,777,000	408,887,000		362,112,000	362,112,000	+9,335,000
Total, Senate	426,919,000	489,630,000		441,208,000	441,208,000	+14,289,000

FY 1997 LEGISLATIVE BRANCH APPROPRIATIONS ACT (H.R. 3754)—continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
HOUSE OF REPRESENTATIVES						
Payments to Widows and Heirs of Deceased Members of Congress						
Gratuities, deceased Members	.....	.....	.....	.....	133,600	+133,600
Salaries and Expenses						
House Leadership Offices						
Office of the Speaker	1,478,000	1,621,000	1,535,000	1,535,000	1,535,000	+57,000
Office of the Majority Floor Leader	1,470,000	1,561,000	1,526,000	1,526,000	1,526,000	+56,000
Office of the Minority Floor Leader	1,480,000	1,574,000	1,534,000	1,534,000	1,534,000	+54,000
Office of the Majority Whip	928,000	976,000	957,000	957,000	957,000	+29,000
Office of the Minority Whip	918,000	963,000	949,000	949,000	949,000	+31,000
Speaker's Office for Legislative Floor Activities	376,000	385,000	376,000	376,000	376,000	.....
House Republican Steering Committee	664,000	681,000	664,000	664,000	664,000	.....
House Republican Conference	1,083,000	1,146,000	1,130,000	1,130,000	1,130,000	+47,000
House Democratic Steering and Policy Committee	1,181,000	1,211,000	1,191,000	1,191,000	1,191,000	+10,000
House Democratic Caucus	566,000	616,000	603,000	603,000	603,000	+37,000
Nine minority employees	1,127,000	1,155,000	1,127,000	1,127,000	1,127,000	.....
Subtotal, House Leadership Offices	11,271,000	11,889,000	11,592,000	11,592,000	11,592,000	+321,000
Members' Representational Allowances						
Expenses	360,503,000	398,898,000	363,313,000	363,313,000	363,313,000	+2,810,000
Committee Employees						
Standing Committees, Special and Select (except Appropriations)	78,629,000	80,524,000	80,222,000	80,222,000	80,222,000	+1,593,000
Committee on Appropriations (including studies and investigations)	16,945,000	18,430,000	17,580,000	17,580,000	17,580,000	+635,000
Subtotal, Committee employees	95,574,000	98,954,000	97,802,000	97,802,000	97,802,000	+2,228,000
Salaries, Officers and Employees						
Office of the Clerk	13,807,000	15,370,000	15,074,000	15,074,000	15,074,000	+1,267,000
Office of the Sergeant at Arms	3,410,000	3,889,000	3,638,000	3,638,000	3,638,000	+228,000
Office of the Chief Administrative Officer	53,556,000	70,464,000	55,209,000	55,209,000	55,209,000	+1,653,000
Office of Inspector General	3,954,000	4,048,000	3,954,000	3,954,000	3,954,000	.....
Office of Compliance	858,000	.....	.....	.....	.....	-858,000
Transfer to new Office of Compliance	-500,000	.....	.....	.....	.....	+500,000
Office of the Chaplain	126,000	128,000	126,000	126,000	126,000	.....
Office of the Parliamentarian	1,180,000	1,036,000	1,036,000	1,036,000	1,036,000	-144,000
Office of the Parliamentarian	(775,000)	(713,000)	(713,000)	(713,000)	(713,000)	(-62,000)
Compilation of precedents of the House of Representatives	(405,000)	(323,000)	(323,000)	(323,000)	(323,000)	(-82,000)
Office of the Law Revision Counsel of the House	1,700,000	1,817,000	1,767,000	1,767,000	1,767,000	+67,000
Office of the Legislative Counsel of the House	4,524,000	4,763,000	4,687,000	4,687,000	4,687,000	+163,000
Other authorized employees	837,000	1,000,000	768,000	768,000	768,000	-69,000
Former Speakers	(666,000)	(825,000)	(594,000)	(594,000)	(594,000)	(-72,000)
Technical Assistants, Office of the Attending Physician	(171,000)	(175,000)	(174,000)	(174,000)	(174,000)	(+3,000)
Subtotal, Salaries, Officers and Employees	83,452,000	102,515,000	86,259,000	86,259,000	86,259,000	+2,807,000
Allowances and Expenses						
Supplies, materials, administrative costs and Federal tort claims	994,000	2,301,000	2,374,000	2,374,000	2,374,000	+1,380,000
Official mail (committees, leadership, administrative and legislative offices)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	.....
Reemployed annuitants reimbursements	68,000	71,000	71,000	71,000	71,000	+3,000
Government contributions	117,541,000	122,508,000	120,779,000	120,779,000	120,779,000	+3,238,000
Miscellaneous items	658,000	641,000	641,000	641,000	641,000	-17,000
Subtotal, Allowances and expenses	120,261,000	126,521,000	124,865,000	124,865,000	124,865,000	+4,604,000
Total, House of Representatives	671,061,000	738,777,000	683,831,000	683,831,000	683,964,600	+12,903,600

FY 1997 LEGISLATIVE BRANCH APPROPRIATIONS ACT (H.R. 3754)—continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
JOINT ITEMS						
Joint Committee on Inaugural Ceremonies of 1997	.....	950,000	950,000	950,000	950,000	+950,000
Joint Economic Committee	3,000,000	3,000,000	3,000,000	750,000	2,750,000	-250,000
Joint Committee on Printing	750,000	777,000	777,000	777,000	777,000	+27,000
Joint Committee on Taxation	5,116,000	7,716,000	5,470,000	5,470,000	5,470,000	+354,000
Office of the Attending Physician						
Medical supplies, equipment, expenses, and allowances	1,260,000	1,225,000	1,225,000	1,225,000	1,225,000	-35,000
Capitol Police Board						
Capitol Police						
Salaries:						
Sergeant at Arms of the House of Representatives	34,213,000	37,286,000	32,927,000	34,213,000	33,437,000	-776,000
Sergeant at Arms and Doorkeeper of the Senate	35,919,000	39,108,000	35,465,000	35,919,000	35,919,000	.....
Subtotal, salaries	70,132,000	76,394,000	68,392,000	70,132,000	69,356,000	-776,000
General expenses	2,560,000	7,606,000	2,685,000	2,880,000	2,782,000	+222,000
Subtotal, Capitol Police	72,692,000	84,000,000	71,077,000	73,012,000	72,138,000	-554,000
Capitol Guide Service and Special Services Office	1,991,000	1,991,000	1,991,000	1,991,000	1,991,000	.....
Statements of Appropriations	30,000	30,000	30,000	30,000	30,000	.....
Total, Joint items	84,839,000	99,689,000	84,520,000	84,205,000	85,331,000	+492,000
OFFICE OF COMPLIANCE						
Salaries and expenses	2,000,000	3,268,000	2,609,000	2,609,000	2,609,000	+609,000
Transfer from House of Rep. Office of Compliance	500,000	.....	.....	.....	.....	-500,000
Total, Office of Compliance	2,500,000	3,268,000	2,609,000	2,609,000	2,609,000	+109,000
OFFICE OF TECHNOLOGY ASSESSMENT						
Salaries and expenses	3,615,000	.....	.....	.....	.....	-3,615,000
Reappropriation	2,500,000	.....	.....	.....	.....	-2,500,000
Total, Office of Technology Assessment	6,115,000	.....	.....	.....	.....	-6,115,000
CONGRESSIONAL BUDGET OFFICE						
Salaries and expenses	24,288,000	24,775,000	24,288,000	24,775,000	24,532,000	+244,000
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	8,569,000	8,714,000	8,454,000	8,454,000	8,454,000	-115,000
Travel (limitation on official travel expenses)	(20,000)	(20,000)	(20,000)	(20,000)	(20,000)	.....
Contingent expenses	100,000	100,000	100,000	100,000	100,000	.....
Subtotal, Office of the Architect of the Capitol	8,669,000	8,814,000	8,554,000	8,554,000	8,554,000	-115,000
Capitol Buildings and Grounds						
Capitol buildings	22,882,000	23,679,000	23,255,000	23,555,000	23,255,000	+373,000
Capitol grounds	5,143,000	5,020,000	5,020,000	5,020,000	5,020,000	-123,000
Senate office buildings	41,757,000	39,640,000	.....	39,640,000	39,640,000	-2,117,000
House office buildings	33,001,000	32,556,000	32,556,000	32,556,000	32,556,000	-445,000
Capitol Power Plant	35,518,000	34,749,000	34,749,000	34,749,000	34,749,000	-769,000
Offsetting collections	-4,000,000	-4,000,000	-4,000,000	-4,000,000	-4,000,000	.....
Net subtotal, Capitol Power Plant	31,518,000	30,749,000	30,749,000	30,749,000	30,749,000	-769,000
Subtotal, Capitol buildings and grounds	134,301,000	131,644,000	91,580,000	131,520,000	131,220,000	-3,081,000
Total, Architect of the Capitol	142,970,000	140,458,000	100,134,000	140,074,000	139,774,000	-3,196,000
LIBRARY OF CONGRESS						
Congressional Research Service						
Salaries and expenses	60,084,000	63,056,000	62,641,000	62,641,000	62,641,000	+2,557,000
GOVERNMENT PRINTING OFFICE						
Congressional printing and binding	83,770,000	83,770,000	81,669,000	81,669,000	81,669,000	-2,101,000
Total, title I, Congressional Operations	1,502,546,000	1,643,423,000	1,039,692,000	1,521,012,000	1,521,728,600	+19,182,600

FY 1997 LEGISLATIVE BRANCH APPROPRIATIONS ACT (H.R. 3754)—continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II - OTHER AGENCIES						
BOTANIC GARDEN						
Salaries and expenses	3,053,000	2,902,000	2,902,000	2,902,000	2,902,000	-151,000
LIBRARY OF CONGRESS						
Salaries and expenses	211,664,000	226,235,000	215,007,000	216,007,000	216,007,000	+4,343,000
Authority to spend receipts	-7,869,000	-7,869,000	-7,869,000	-7,869,000	-7,869,000	
Net subtotal, Salaries and expenses	203,795,000	218,366,000	207,138,000	208,138,000	208,138,000	+4,343,000
Copyright Office, salaries and expenses	30,818,000	34,566,000	33,402,000	33,402,000	33,402,000	+2,584,000
Authority to spend receipts	-19,830,000	-22,278,000	-22,269,000	-22,269,000	-22,269,000	-2,439,000
Net subtotal, Copyright Office	10,988,000	12,288,000	11,133,000	11,133,000	11,133,000	+145,000
Books for the blind and physically handicapped, salaries and expenses	44,951,000	46,057,000	44,964,000	44,964,000	44,964,000	+13,000
Furniture and furnishings	4,882,000	4,882,000	4,882,000	4,882,000	4,882,000	
Total, Library of Congress (except CRS)	264,616,000	281,593,000	268,117,000	269,117,000	269,117,000	+4,501,000
ARCHITECT OF THE CAPITOL						
Library Buildings and Grounds						
Structural and mechanical care	12,428,000	9,003,000	9,003,000	10,453,000	9,753,000	-2,675,000
GOVERNMENT PRINTING OFFICE						
Office of Superintendent of Documents						
Salaries and expenses	30,307,000	30,827,000	29,077,000	29,077,000	29,077,000	-1,230,000
GENERAL ACCOUNTING OFFICE						
Salaries and expenses	382,806,000	377,773,000	338,425,000	338,425,000	338,425,000	-44,381,000
Offsetting collections	-8,400,000	-6,100,000	-5,905,000	-5,905,000	-5,905,000	+2,495,000
Total, General Accounting Office	374,406,000	371,673,000	332,520,000	332,520,000	332,520,000	-41,886,000
Total, title II, Other agencies	684,810,000	695,998,000	641,619,000	644,069,000	643,369,000	-41,441,000
Grand total	2,187,356,000	2,339,421,000	1,681,311,000	2,165,081,000	2,165,097,600	-22,258,400
TITLE I - CONGRESSIONAL OPERATIONS						
Senate	426,919,000	489,630,000		441,208,000	441,208,000	+14,289,000
House of Representatives	671,061,000	738,777,000	683,831,000	683,831,000	683,964,600	+12,903,600
Joint Items	84,839,000	99,689,000	84,520,000	84,205,000	85,331,000	+492,000
Office of Compliance	2,500,000	3,268,000	2,609,000	2,609,000	2,609,000	+109,000
Office of Technology Assessment	6,115,000					-6,115,000
Congressional Budget Office	24,288,000	24,775,000	24,288,000	24,775,000	24,532,000	+244,000
Architect of the Capitol	142,970,000	140,458,000	100,134,000	140,074,000	139,774,000	-3,196,000
Library of Congress: Congressional Research Service	60,084,000	63,056,000	62,641,000	62,641,000	62,641,000	+2,557,000
Congressional printing and binding, Government Printing Office	83,770,000	83,770,000	81,669,000	81,669,000	81,669,000	-2,101,000
Total, title I, Congressional operations	1,502,546,000	1,643,423,000	1,039,692,000	1,521,012,000	1,521,728,600	+19,182,600
TITLE II - OTHER AGENCIES						
Botanic Garden	3,053,000	2,902,000	2,902,000	2,902,000	2,902,000	-151,000
Library of Congress (except CRS)	264,616,000	281,593,000	268,117,000	269,117,000	269,117,000	+4,501,000
Architect of the Capitol (Library buildings and grounds)	12,428,000	9,003,000	9,003,000	10,453,000	9,753,000	-2,675,000
Government Printing Office (except congressional printing and binding)	30,307,000	30,827,000	29,077,000	29,077,000	29,077,000	-1,230,000
General Accounting Office	374,406,000	371,673,000	332,520,000	332,520,000	332,520,000	-41,886,000
Total, title II, Other agencies	684,810,000	695,998,000	641,619,000	644,069,000	643,369,000	-41,441,000
Grand total	2,187,356,000	2,339,421,000	1,681,311,000	2,165,081,000	2,165,097,600	-22,258,400

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

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

I rise to express my appreciation to the conference for following the instructions of this House and instructing action on the conference report and to commend the chairman, the gentleman from California [Mr. PACKARD], for his efforts.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. HOYER. Mr. Speaker, I rise in support of the conference report today. I want to thank the chairman and the ranking member for their concern about a provision that was of particular concern to me.

This House is obviously undergoing a change in management. As a result, many of our hardworking, loyal, nonlegislative House employees have been through a period of great unrest and unease.

As passed by this House, this bill originally contained language regarding the privatization of certain aspects of the Architect of the Capitol, including the maintenance workers. I am pleased that as a result of the work of the conference, and particularly Mr. SERRANO, that the report before us today now contains language protecting the current employees so that they will not be displaced by an privatization.

The bulk of this work force are older, minority employees who would be hard pressed to find new jobs at this stage in their careers. They have served this institution and its particular needs well. It would have been unfair at this time to proceed with privatization without properly protecting these employees. I am glad that the conference report now contains language providing that important protection.

Furthermore, as the Architect studies further privatization options, which I hope are not proceeded with, I believe it is important that we continue to consider the unique nature of the congressional buildings, the loyalty of the existing work force and the particular needs of our institution. I do not believe all the answers lie in outsourcing these services and will continue to work with the members of the subcommittee and on the House Oversight Committee on which I serve, to ensure fair and reasonable treatment for our hardworking employees.

Mr. Speaker, again, I thank the members of the conference for their sensitivity to these concerns and look forward to continuing to work with them.

Mr. PACKARD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

Pursuant to clause 5 of rule I, further proceedings on the conference report will be postponed.

CONFERENCE REPORT ON H.R. 3603, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider a conference report to accompany the bill (H.R. 3603) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up.

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

There was no objection.

Mr. SKEEN. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the bill (H.R. 3603) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, July 30, 1996, at page 20538.)

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN] and the gentleman from Illinois [Mr. DURBIN] each will control 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

GENERAL LEAVE

Mr. SKEEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 3603, and that they may include tabular and extraneous material.

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

There was no objection.

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

I will be brief and ask that my formal remarks be inserted in the RECORD. This conference report is almost the same as the bill that passed the House on June 12.

Mr. Speaker, this conference agreement has programs that benefit every one of our constituents and their lives every day no matter where they live or what they do. I respectfully ask that we get an "aye" vote on the conference agreement on H.R. 3603.

Mr. Speaker, I am pleased to present to you today the conference agreement for H.R. 3603, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for fiscal year 1997.

This is a solid bipartisan bill which advances both the goals of budget reduction and the support of a large number of programs important to the health and safety of the American people.

Going into conference with the Senate, our bills were $316 million apart in discretionary spending, with the House having the lower mark. The leadership of both committees split the difference, giving the House an additional $158 million.

This conference agreement is essentially the same as the bill that passed the House on June 12. The additional money added in the conference has gone almost entirely for rural development, research and education programs all of which have high priority and long-term benefits.

I want to emphasize, Mr. Speaker, that this agreement is right on our required spending targets. Discretionary spending is at $12.96 billion which is $350 million less than fiscal year 1996. Mandatory spending is at $39.9 billion which is $9.9 billion less than the current year. Total spending in the bill is $52.8 billion which is $10.2 billion less than the current year and $5.6 billion below the administration request.

Mr. Speaker and Members of the House, this agreement supports programs which benefit every one of your constituents every day, no matter if they live in rural America, the suburbs or in our great cities.

It supports the food stamp program, the Women, Infants and Children feeding program, school lunch, school breakfast, elderly feeding programs, and other essential services.

Our rural development funding brings clean water, affordable housing, jobs, and economic growth to rural America.

Our research programs support the finest and most efficient agricultural system in the world. This system not only delivers an abundance of food to the American consumer but this year it creates a more than $30 billion trade surplus in agricultural products, meaning jobs in the food processing, transportation and service industries in every State.

This conference report also supports the Food and Drug Administration and the food safety and inspection service which protect our supply of food, medicines and medical devices. I want to point out, Mr. Chairman, that this agreement fully funds the food safety and inspection service as it launches the most comprehensive change ever in our Federal meat and poultry inspection system.

Mr. Speaker, I do want to point out one matter than I know is of concern to a number of Members and that is the formula grants to 1890's colleges and Tuskegee University. For the fiscal year 1997, cuts were made in extension grants using an across-the-board formula with last year's grants as a base. There was an error in the calculation of the grant formula for 1890's colleges and Tuskegee University. I have discussed this with representatives of these institutions and I want to assure them and my colleagues that I will work to correct this error at the first opportunity.

Finally, Mr. Speaker, I mentioned at the start that this is a bipartisan effort and I want to point out that the distinguished ranking member of the subcommittee, Mr. DURBIN, successfully added a package of reforms to the rural housing programs which have been needed for quite some time. These reforms are not only good for rural Americans in need of housing but they are good for the taxpayer as well.

Mr. Speaker, I thank you and your colleagues for the opportunity to appear before you here today. I believe this will be the first domestic conference report to clear the Congress. On behalf of the Agriculture Appropriations Subcommittee, I respectfully ask for the support of all my colleagues in the House. Vote "yes" on the conference report for H.R. 3603.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603)

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - AGRICULTURAL PROGRAMS						
Production, Processing, and Marketing						
Office of the Secretary	10,227,000	10,336,000	2,836,000	2,836,000	2,836,000	-7,391,000
Executive Operations:						
Chief Economist	3,948,000	4,292,000	4,231,000	4,231,000	4,231,000	+283,000
National Appeals Division	11,846,000	13,363,000	11,718,000	11,718,000	11,718,000	-128,000
Office of Budget and Program Analysis	5,899,000	5,986,000	5,986,000	5,986,000	5,986,000	+87,000
Office of Small and Disadvantaged Business Utilization	.....	804,000	.....	.....	.....	.....
Total, Executive Operations	21,693,000	24,445,000	21,935,000	21,935,000	21,935,000	+242,000
Chief Financial Officer	4,133,000	4,437,000	4,283,000	4,283,000	4,283,000	+150,000
Office of the Assistant Secretary for Administration	596,000	613,000	613,000	613,000	613,000	+17,000
Agriculture buildings and facilities (USDA)	135,774,000	149,635,000	125,548,000	144,053,400	144,053,000	+8,279,000
Payments to GSA	(89,971,000)	(103,754,000)	(103,754,000)	(103,754,000)	(103,754,000)	(+13,783,000)
Building operations and maintenance	(20,216,000)	(20,294,000)	(16,794,000)	(16,794,000)	(16,794,000)	(-3,422,000)
Repairs, renovations, and construction	(25,587,000)	(25,587,000)	(5,000,000)	(23,505,400)	(23,505,000)	(-2,082,000)
Advisory committees (USDA)	650,000	856,000	.....	.....	.....	-650,000
Hazardous waste management	15,700,000	15,700,000	15,700,000	15,700,000	15,700,000	.....
Departmental administration	27,986,000	29,137,000	28,304,000	30,529,000	30,529,000	+2,543,000
Office of the Assistant Secretary for Congressional Relations	3,797,000	3,842,000	3,728,000	3,668,000	3,668,000	-129,000
Office of Communications	8,198,000	8,317,000	8,138,000	8,138,000	8,138,000	-60,000
Office of the Inspector General	63,639,000	64,523,000	63,028,000	63,028,000	63,028,000	-611,000
Office of the General Counsel	27,860,000	29,249,000	27,749,000	27,749,000	27,749,000	-111,000
Office of the Under Secretary for Research, Education and Economics	520,000	540,000	540,000	540,000	540,000	+20,000
Economic Research Service	53,131,000	54,947,000	54,176,000	53,109,000	53,109,000	-22,000
National Agricultural Statistics Service	81,107,000	102,624,000	100,221,000	98,121,000	100,221,000	+19,114,000
Agricultural Research Service	710,000,000	728,853,000	702,831,000	722,839,600	716,826,000	+6,826,000
Buildings and facilities	30,200,000	80,100,000	59,600,000	59,200,000	69,100,000	+38,900,000
Total, Agricultural Research Service	740,200,000	808,953,000	762,431,000	782,039,600	785,926,000	+45,726,000
Cooperative State Research, Education, and Extension Service:						
Research and education activities	421,929,000	418,572,000	411,849,000	419,370,000	421,504,000	-425,000
Native Americans Institutions Endowment Fund	(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	(4,600,000)	.....
Buildings and facilities	57,838,000	.....	30,449,000	55,668,000	61,591,000	+3,753,000
Extension Activities	427,750,000	423,488,000	409,670,000	431,122,000	425,520,000	-2,230,000
Total, Cooperative State Research, Education, and Extension Service	907,517,000	842,060,000	851,968,000	906,160,000	908,615,000	+1,098,000
Office of the Assistant Secretary for Marketing and Regulatory Programs	605,000	618,000	618,000	618,000	618,000	+13,000
Animal and Plant Health Inspection Service:						
Salaries and expenses	431,921,000	439,033,000	435,428,000	432,103,000	434,909,000	+2,988,000
AQI user fees 1/	(100,254,000)	(100,000,000)	(98,000,000)	(98,000,000)	(98,000,000)	(-2,254,000)
Buildings and facilities	8,757,000	3,200,000	3,200,000	3,200,000	3,200,000	-5,557,000
Total, Animal and Plant Health Inspection Service	440,678,000	442,233,000	438,628,000	435,303,000	438,109,000	-2,569,000
Agricultural Marketing Service:						
Marketing Services	46,517,000	48,311,000	37,592,000	46,767,000	38,507,000	-8,010,000
New user fees	(3,887,000)	.....	(3,887,000)	(3,887,000)	(3,887,000)	.....
(Limitation on administrative expenses, from fees collected)	(58,461,000)	(59,012,000)	(59,012,000)	(59,012,000)	(59,012,000)	(+551,000)
Funds for strengthening markets, income, and supply (transfer from section 32)	10,451,000	10,576,000	10,576,000	10,576,000	10,576,000	+125,000
Payments to states and possessions	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	.....
Total, Agricultural Marketing Service	58,168,000	60,087,000	49,368,000	58,543,000	50,283,000	-7,885,000
Grain Inspection, Packers and Stockyards Administration	23,058,000	24,595,000	22,728,000	23,928,000	23,128,000	+70,000
Inspection and Weighing Services (limitation on administrative expenses, from fees collected)	(42,784,000)	(43,207,000)	(43,207,000)	(43,207,000)	(43,207,000)	(+423,000)
Office of the Under Secretary for Food Safety	440,000	576,000	446,000	446,000	446,000	+6,000
Food Safety and Inspection Service	544,906,000	574,000,000	574,000,000	557,697,000	574,000,000	+29,094,000
Lab accreditation fees 2/	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	.....
Total, Production, Processing, and Marketing	3,170,583,000	3,252,323,000	3,156,986,000	3,239,037,000	3,257,527,000	+86,944,000
Farm Assistance Programs						
Office of the Under Secretary for Farm and Foreign Agricultural Services	549,000	572,000	572,000	572,000	572,000	+23,000
Farm Service Agency:						
Salaries and expenses	795,000,000	820,495,000	746,440,000	725,000,000	746,440,000	-48,560,000
(Transfer from export loans)	(589,000)	(623,000)	(589,000)	(589,000)	(589,000)	.....
(Transfer from P.L. 480)	(745,000)	(783,000)	(745,000)	(783,000)	(745,000)	.....
(Transfer from ACIF)	(208,446,000)	(209,485,000)	(208,446,000)	(208,446,000)	(208,446,000)	.....
Total, salaries and expenses	(1,004,780,000)	(1,031,386,000)	(956,220,000)	(934,818,000)	(956,220,000)	(-48,560,000)

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
State mediation grants	2,000,000	3,000,000	.....	2,000,000	2,000,000	.....
Dairy indemnity program	100,000	100,000	100,000	100,000	100,000	.....
Outreach for socially disadvantaged farmers and ranchers	1,000,000	3,000,000	1,000,000	1,000,000	1,000,000	.....
Total, Farm Service Agency	798,100,000	826,595,000	747,540,000	728,100,000	749,540,000	-48,560,000
Agricultural Credit Insurance Fund Program Account:						
Loan authorizations:						
Farm ownership loans:						
Direct	(60,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(-10,000,000)
Guaranteed	(550,000,000)	(650,000,000)	(550,000,000)	(550,000,000)	(550,000,000)	.....
Subtotal	(610,000,000)	(700,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(-10,000,000)
Operating loans:						
Direct	(550,000,000)	(445,071,000)	(445,071,000)	(445,071,000)	(445,071,000)	(-104,929,000)
Guaranteed unsubsidized	(1,700,000,000)	(1,750,000,000)	(1,700,000,000)	(1,700,000,000)	(1,700,000,000)	.....
Guaranteed subsidized	(200,000,000)	(250,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	.....
Subtotal	(2,450,000,000)	(2,445,071,000)	(2,345,071,000)	(2,345,071,000)	(2,345,071,000)	(-104,929,000)
Indian tribe land acquisition loans	(750,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(+250,000)
Emergency disaster loans	(100,000,000)	.....	(25,000,000)	(75,000,000)	(25,000,000)	(-75,000,000)
Boll weevil Loans	.....	.....	.....	(15,384,000)	(34,653,000)	(+34,653,000)
Credit sales of acquired property	.....	(50,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(+25,000,000)
Total, Loan authorizations	(3,160,750,000)	(3,196,071,000)	(2,996,071,000)	(3,061,455,000)	(3,030,724,000)	(-130,026,000)
Loan subsidies:						
Farm ownership:						
Direct	14,034,000	5,920,000	5,920,000	5,920,000	5,920,000	-8,114,000
Guaranteed	20,019,000	26,065,000	22,055,000	22,055,000	22,055,000	+2,036,000
Subtotal	34,053,000	31,985,000	27,975,000	27,975,000	27,975,000	-6,078,000
Farm operating:						
Direct	75,185,000	59,150,000	59,150,000	59,150,000	59,150,000	-16,035,000
Guaranteed unsubsidized	18,360,000	19,775,000	19,210,000	19,210,000	19,210,000	+850,000
Guaranteed subsidized	17,960,000	23,100,000	18,480,000	18,480,000	18,480,000	+520,000
Subtotal	111,505,000	102,025,000	96,840,000	96,840,000	96,840,000	-14,665,000
Indian tribe land acquisition	206,000	54,000	54,000	54,000	54,000	-152,000
Emergency disaster	32,080,000	.....	6,365,000	19,095,000	6,365,000	-25,715,000
Boll weevil loans subsidy	.....	.....	.....	2,000,000	499,000	+499,000
Credit sales of acquired property	.....	5,060,000	2,530,000	2,530,000	2,530,000	+2,530,000
Total, Loan subsidies	177,844,000	139,124,000	133,764,000	148,494,000	134,263,000	-43,581,000
ACIF expenses:						
Salaries and expenses	208,935,000	209,485,000	208,446,000	208,446,000	208,446,000	-489,000
Administrative expenses	12,606,000	12,606,000	12,600,000	12,600,000	12,600,000	-6,000
Total, ACIF expenses	221,541,000	222,091,000	221,046,000	221,046,000	221,046,000	-495,000
Total, Agricultural Credit Insurance Fund	399,385,000	361,215,000	354,810,000	369,540,000	355,309,000	-44,076,000
(Loan authorization)	(3,160,750,000)	(3,196,071,000)	(2,996,071,000)	(3,061,455,000)	(3,030,724,000)	(-130,026,000)
Office of Risk Management	.....	.....	62,198,000	70,000,000	64,000,000	+64,000,000
Total, Farm Assistance Programs	1,198,034,000	1,188,382,000	1,165,120,000	1,168,212,000	1,169,421,000	-28,613,000
Corporations						
Federal Crop Insurance Corporation:						
Federal crop insurance corporation fund	1,263,708,000	1,591,000,000	1,591,000,000	1,591,000,000	1,591,000,000	+327,292,000
Commodity Credit Corporation Fund:						
Reimbursement for net realized losses	10,400,000,000	1,500,000,000	1,500,000,000	1,500,000,000	1,500,000,000	-8,900,000,000
Hazardous waste (limitation on administrative expenses)	(5,000,000)	(15,750,000)	(5,000,000)	(5,000,000)	(5,000,000)	.....
Total, Corporations	11,663,708,000	3,091,000,000	3,091,000,000	3,091,000,000	3,091,000,000	-8,572,708,000
Total, title I, Agricultural Programs	16,032,325,000	7,531,705,000	7,413,106,000	7,498,249,000	7,517,948,000	-8,514,377,000
(By transfer)	(209,780,000)	(210,891,000)	(209,780,000)	(209,818,000)	(209,780,000)	.....
(Loan authorization)	(3,160,750,000)	(3,196,071,000)	(2,996,071,000)	(3,061,455,000)	(3,030,724,000)	(-130,026,000)
(Limitation on administrative expenses)	(106,245,000)	(117,969,000)	(107,219,000)	(107,219,000)	(107,219,000)	(+974,000)
TITLE II - CONSERVATION PROGRAMS						
Office of the Under Secretary for Natural Resources and Environment	677,000	693,000	693,000	693,000	693,000	+16,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Natural Resources Conservation Service:						
Conservation operations	629,986,000	662,910,000	619,392,000	638,954,000	619,742,000	-10,244,000
Watershed surveys and planning	14,000,000	19,188,000	10,762,000	14,000,000	12,381,000	-1,619,000
Watershed and flood prevention operations	100,000,000	116,036,000	101,036,000	101,036,000	101,036,000	+1,036,000
Emergency appropriations (P.L. 104-134)	80,514,000					-80,514,000
Resource conservation and development	29,000,000	29,377,000	29,377,000	29,377,000	29,377,000	+377,000
Forestry incentives program	6,325,000	6,325,000	6,325,000	6,325,000	6,325,000	
Colorado River Basin salinity control program	2,681,000					-2,681,000
Wetlands reserve program	77,000,000	188,000,000				-77,000,000
National Natural Resources Conservation Service Foundation		500,000				
Total, Natural Resources Conservation Service	939,506,000	1,022,336,000	766,892,000	789,692,000	768,861,000	-170,645,000
Farm Service Agency:						
Agricultural conservation program	75,000,000					-75,000,000
Water quality incentives program	(11,000,000)	(15,000,000)				(-11,000,000)
Conservation reserve program	1,781,785,000	1,924,850,000				-1,781,785,000
Emergency appropriations (P.L. 104-134)	30,000,000					-30,000,000
Total, Farm Service Agency	1,886,785,000	1,924,850,000				-1,886,785,000
Total, title II, Conservation Programs	2,826,968,000	2,947,879,000	767,585,000	790,385,000	769,554,000	-2,057,414,000
TITLE III - RURAL ECONOMIC AND COMMUNITY DEVELOPMENT PROGRAMS						
Office of the Under Secretary for Rural Development	568,000	588,000	588,000	588,000	588,000	+20,000
Rural Housing Service:						
Rural Housing Insurance Fund Program Account:						
Loan authorizations:						
Low-income housing (sec. 502)	(1,000,000,000)	(1,320,000,000)	(1,000,000,000)	(1,000,000,000)	(1,000,000,000)	
Unsubsidized guaranteed	(1,700,000,000)	(2,300,000,000)	(2,300,000,000)	(2,300,000,000)	(2,300,000,000)	(+600,000,000)
Housing repair (sec. 504)	(35,000,000)	(35,000,000)	(35,000,000)	(35,000,000)	(35,000,000)	
Farm labor (sec. 514)	(15,000,000)	(16,482,000)	(15,000,000)	(15,000,000)	(15,000,000)	
Rental housing (sec. 515)	(150,000,000)	(58,654,000)	(58,654,000)	(58,654,000)	(58,654,000)	(-91,346,000)
Site loans (sec. 524)	(600,000)	(600,000)	(600,000)	(600,000)	(600,000)	
Self-help housing land development fund	(603,000)	(600,000)	(600,000)	(600,000)	(600,000)	(-3,000)
Credit sales of acquired property		(75,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(+50,000,000)
Emergency appropriations (P.L. 104-134)	(38,960,000)					(-38,960,000)
Total, Loan authorizations	(2,940,163,000)	(3,806,336,000)	(3,459,854,000)	(3,459,854,000)	(3,459,854,000)	(+519,691,000)
Loan subsidies:						
Single family (sec. 502):						
Direct	145,833,000	109,560,000	83,000,000	83,000,000	83,000,000	-62,833,000
Unsubsidized guaranteed	2,890,000	6,210,000	6,210,000	6,210,000	6,210,000	+3,320,000
Housing repair (sec. 504)	14,193,000	11,081,000	11,081,000	11,081,000	11,081,000	-3,112,000
Farm labor (sec. 514)	8,629,000	7,565,000	6,885,000	6,885,000	6,885,000	-1,744,000
Rental housing (sec. 515):						
Direct	82,035,000	28,987,000	28,987,000	28,987,000	28,987,000	-53,048,000
Unsubsidized guaranteed	(1,000,000)		(1,000,000)	(1,000,000)	(1,000,000)	
Self-help housing land development fund	31,000	17,000	17,000	17,000	17,000	-14,000
Credit sales of acquired property		6,098,000	4,050,000	4,050,000	4,050,000	+4,050,000
Emergency appropriations (P.L. 104-134)	6,500,000					-6,500,000
Total, Loan subsidies	260,111,000	169,518,000	140,230,000	140,230,000	140,230,000	-119,881,000
RHIF administrative expenses	385,889,000	366,205,000	366,205,000	366,205,000	366,205,000	-19,684,000
Rental assistance program:						
(Sec. 521)	535,000,000	487,970,000	487,970,000	487,970,000	487,970,000	-47,030,000
(Sec. 502(c)(5)(D))	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000	
Total, Rental assistance program	540,900,000	493,870,000	493,870,000	493,870,000	493,870,000	-47,030,000
Total, Rural Housing Insurance Fund	1,186,900,000	1,029,593,000	1,000,305,000	1,000,305,000	1,000,305,000	-186,595,000
(Loan authorization)	(2,940,163,000)	(3,806,336,000)	(3,459,854,000)	(3,459,854,000)	(3,459,854,000)	(+519,691,000)
Community Facility Loans Program Account:						
Loan authorizations:						
Direct	(200,000,000)					(-200,000,000)
Guaranteed	(75,000,000)					(-75,000,000)
Total, Loan authorizations	(275,000,000)					(-275,000,000)
Loan subsidies:						
Direct	34,880,000					-34,880,000
Guaranteed	3,555,000					-3,555,000
Total, Loan subsidies	38,435,000					-38,435,000
Administrative expenses	8,836,000					-8,836,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Very low-income housing repair grants	24,900,000	24,900,000				-24,900,000
Emergency appropriations (P.L. 104-134)	1,100,000					-1,100,000
Rural housing for domestic farm labor	10,000,000	10,000,000				-10,000,000
Mutual and self-help housing grants	12,650,000	26,000,000	26,000,000	26,000,000	26,000,000	+13,350,000
Rural community fire protection grants	2,000,000					-2,000,000
Compensation for construction defects	495,000					-495,000
Rural housing preservation grants	11,000,000	11,000,000				-11,000,000
Rural housing assistance program 3/		136,435,000	73,190,000	136,435,000	130,433,000	+130,433,000
Subtotal, grants and payments	62,145,000	208,335,000	99,190,000	162,435,000	156,433,000	+94,288,000
RHS expenses:						
Administrative expenses	46,583,000	89,860,000	53,889,000	66,354,000	60,743,000	+14,160,000
(Transfer from RHIF)	(377,074,000)	(366,205,000)	(366,205,000)	(366,205,000)	(366,205,000)	(-10,869,000)
(Transfer from ACIF)	(171,000)					(-171,000)
(Transfer from CFLP)	(8,731,000)					(-8,731,000)
Total, RHS expenses	(432,559,000)	(455,865,000)	(420,094,000)	(432,559,000)	(426,948,000)	(-5,611,000)
Total, Rural Housing Service	1,342,899,000	1,327,588,000	1,153,384,000	1,229,094,000	1,217,481,000	-125,418,000
(Loan authorization)	(3,215,163,000)	(3,806,336,000)	(3,459,854,000)	(3,459,854,000)	(3,459,854,000)	(+244,691,000)
Rural Business-Cooperative Service:						
Rural Business and Industry Loans Program Account:						
Loan authorization: Guaranteed	(500,000,000)					(-500,000,000)
Loan subsidy: Guaranteed	6,437,000					-6,437,000
Administrative expenses	14,868,000					-14,868,000
Rural Development Loan Fund Program Account:						
(Loan authorization)	(37,544,000)	(80,000,000)	(40,000,000)	(37,544,000)	(37,544,000)	
Loan subsidy	22,395,000	36,928,000	18,400,000	17,270,000	17,270,000	-5,125,000
Administrative expenses	1,476,000					-1,476,000
Rural Economic Development Loans Program Account:						
Direct loans (limitation on obligations)	(12,865,000)	(14,000,000)	(12,865,000)	(12,865,000)	(12,865,000)	
Direct subsidy	3,729,000	3,095,000	2,830,000	2,830,000	2,830,000	-899,000
Administrative expenses	654,000	699,000	654,000	654,000	654,000	
Alternative Agricultural Research and Commercialization Revolving Fund	6,500,000	6,975,000	6,000,000	10,000,000	7,000,000	+500,000
Rural business enterprise grants	45,000,000					-45,000,000
Appropriate technology transfer for rural areas	2,300,000	1,300,000				-2,300,000
Rural business-cooperative assistance 3/		53,750,000	51,400,000	53,750,000	51,400,000	+51,400,000
RBCS expenses:						
Salaries and expenses	9,013,000	27,068,000	25,680,000	25,680,000	25,680,000	+16,667,000
(Transfer from RBILP)	(14,747,000)					(-14,747,000)
(Transfer from RDLFP)	(1,476,000)					(-1,476,000)
(Transfer from REDLP)	(654,000)	(699,000)	(654,000)	(654,000)	(654,000)	
Total, RBCS expenses	(25,890,000)	(27,767,000)	(26,334,000)	(26,334,000)	(26,334,000)	(+444,000)
Total, Rural Business-Cooperative Service	112,372,000	129,815,000	104,964,000	110,184,000	104,834,000	-7,538,000
(By transfer)	(16,877,000)	(699,000)	(654,000)	(654,000)	(654,000)	(-16,223,000)
(Loan authorization)	(537,544,000)	(80,000,000)	(40,000,000)	(37,544,000)	(37,544,000)	(-500,000,000)
Rural Utilities Service:						
Rural Electrification and Telecommunications Loans Program Account:						
Loan authorizations:						
Direct loans:						
Electric 5%	(90,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	(125,000,000)	(+35,000,000)
Telephone 5%	(70,000,000)	(75,000,000)	(75,000,000)	(75,000,000)	(75,000,000)	(+5,000,000)
Subtotal	(160,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(+40,000,000)
Treasury rate: Telephone	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	
Muni-rate: Electric	(525,000,000)	(600,000,000)	(525,000,000)	(525,000,000)	(525,000,000)	
FFB loans:						
Electric, regular	(300,000,000)	(400,000,000)	(300,000,000)	(300,000,000)	(300,000,000)	
Telephone	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	
Subtotal	(420,000,000)	(520,000,000)	(420,000,000)	(420,000,000)	(420,000,000)	
Total, Loan authorizations	(1,405,000,000)	(1,620,000,000)	(1,445,000,000)	(1,445,000,000)	(1,445,000,000)	(+40,000,000)
Loan subsidies:						
Direct loans:						
Electric 5%	21,168,000	3,625,000	3,625,000	3,625,000	3,625,000	-17,543,000
Telephone 5%	13,958,000	1,193,000	1,193,000	1,193,000	1,193,000	-12,765,000
Subtotal	35,126,000	4,818,000	4,818,000	4,818,000	4,818,000	-30,308,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Treasury rate: Telephone	60,000	60,000	60,000	60,000	60,000	.....
Muni-rate, electric	56,858,000	32,280,000	28,245,000	28,245,000	28,245,000	-28,613,000
FFB loans: Electric, regular	2,520,000	3,720,000	2,790,000	2,790,000	2,790,000	+270,000
Total, Loan subsidies	94,564,000	40,878,000	35,913,000	35,913,000	35,913,000	-58,651,000
RETLP administrative expenses	29,982,000	33,070,000	29,982,000	29,982,000	29,982,000	.....
Total, Rural Electrification and Telecommunications Loans Program Account	124,546,000	73,948,000	65,895,000	65,895,000	65,895,000	-58,651,000
(Loan authorization)	(1,405,000,000)	(1,620,000,000)	(1,445,000,000)	(1,445,000,000)	(1,445,000,000)	(+40,000,000)
Rural Telephone Bank Program Account:						
Direct loans (limitation on obligations)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	.....
Direct loan subsidy	5,023,000	2,328,000	2,328,000	2,328,000	2,328,000	-2,695,000
RTB administrative expenses	3,541,000	3,500,000	3,500,000	3,500,000	3,500,000	-41,000
Distance learning and medical link grants and loans	7,500,000	20,261,000	7,500,000	10,000,000	9,000,000	+1,500,000
Solid waste management grants, rural water and waste disposal grants, and water and waste disposal facility loans (administrative expenses)	12,740,000	.....	.....	.....	.....	-12,740,000
Rural utilities assistance program 3/	487,868,000	661,560,000	496,868,000	656,742,000	566,935,000	+79,067,000
Emergency appropriations (P.L. 104-134)	11,000,000	.....	.....	.....	.....	-11,000,000
RUS expenses:						
Salaries and expenses	18,449,000	33,873,000	33,195,000	33,195,000	33,195,000	+14,746,000
Electric and telephone loans (by transfer)	(29,982,000)	(33,070,000)	(29,982,000)	(29,982,000)	(29,982,000)	.....
Rural telephone bank (by transfer)	(3,541,000)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(-41,000)
Agricultural Credit Insurance Fund Program Account (by transfer)	(318,000)	.....	.....	.....	.....	(-318,000)
Rural partnership (by transfer)	(12,623,000)	.....	.....	.....	.....	(-12,623,000)
Total, RUS expenses	(64,913,000)	(70,443,000)	(66,677,000)	(66,677,000)	(66,677,000)	(+1,764,000)
Total, Rural Utilities Service	670,667,000	795,470,000	609,286,000	771,660,000	680,853,000	+10,186,000
(By transfer)	(46,464,000)	(36,570,000)	(33,482,000)	(33,482,000)	(33,482,000)	(-12,982,000)
(Loan authorization)	(1,405,000,000)	(1,620,000,000)	(1,445,000,000)	(1,445,000,000)	(1,445,000,000)	(+40,000,000)
(Limitation on obligations)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	(175,000,000)	.....
Total, title III, Rural Economic and Community Development Programs	2,126,506,000	2,253,461,000	1,868,222,000	2,111,526,000	2,003,756,000	-122,750,000
(By transfer)	(449,317,000)	(403,474,000)	(400,341,000)	(400,341,000)	(400,341,000)	(-48,976,000)
(Loan authorization)	(5,157,707,000)	(5,506,336,000)	(4,944,854,000)	(4,942,398,000)	(4,942,398,000)	(-215,309,000)
(Limitation on obligations)	(187,865,000)	(189,000,000)	(187,865,000)	(187,865,000)	(187,865,000)	.....
TITLE IV - DOMESTIC FOOD PROGRAMS						
Office of the Under Secretary for Food, Nutrition and Consumer Services	440,000	554,000	454,000	554,000	454,000	+14,000
Food and Consumer Service:						
Child nutrition programs	2,348,166,000	3,251,215,000	3,218,844,000	3,221,044,000	3,219,544,000	+871,378,000
Discretionary spending	.....	4,000,000	.....	.....	.....	.....
Transfer from section 32	5,597,858,000	5,413,453,000	5,433,753,000	5,433,753,000	5,433,753,000	-164,105,000
Total, Child nutrition programs	7,946,024,000	8,668,668,000	8,652,597,000	8,654,797,000	8,653,297,000	+707,273,000
Special supplemental nutrition program for women, infants, and children (WIC)	3,729,807,000	3,780,000,000	3,729,807,000	3,729,807,000	3,729,807,000	.....
Reserve	.....	100,000,000	.....	.....	.....	.....
(By transfer)	(4,000,000)	.....	.....	.....	.....	(-4,000,000)
Food stamp program:						
Expenses	25,954,828,000	26,353,555,000	26,341,029,000	26,347,029,000	26,344,029,000	+389,201,000
Reserve	500,000,000	2,461,200,000	100,000,000	1,000,000,000	100,000,000	-400,000,000
Nutrition assistance for Puerto Rico	1,143,000,000	1,174,000,000	1,174,000,000	1,174,000,000	1,174,000,000	+31,000,000
Total, Food stamp program	27,597,828,000	29,988,755,000	27,615,029,000	28,521,029,000	27,618,029,000	+20,201,000
Commodity assistance program	166,000,000	172,000,000	166,000,000	166,000,000	166,000,000	.....
Food donations programs for selected groups:						
Needy family program	65,000,000	65,000,000	65,000,000	1,250,000	1,250,000	-63,750,000
Elderly feeding program	150,000,000	150,000,000	140,000,000	140,000,000	140,000,000	-10,000,000
Total, Food donations programs	215,000,000	215,000,000	205,000,000	141,250,000	141,250,000	-73,750,000
Food program administration	107,769,000	110,982,000	104,487,000	107,769,000	106,128,000	-1,641,000
The Center for Nutrition Policy and Promotion	.....	4,470,000	.....	.....	.....	.....
Total, Food and Consumer Service	39,762,428,000	43,039,875,000	40,472,920,000	41,320,652,000	40,414,511,000	+652,083,000
Total, title IV, Domestic Food Programs	39,762,868,000	43,040,429,000	40,473,374,000	41,321,206,000	40,414,965,000	+652,097,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE V - FOREIGN ASSISTANCE AND RELATED PROGRAMS						
Foreign Agricultural Service:						
Direct appropriation	115,802,000	132,875,000	124,208,000	134,295,000	131,295,000	+15,493,000
(Transfer from Commodity Credit Corporation)	(5,176,000)	.....	.....	.....	.....	(-5,176,000)
(Transfer from export loans)	(2,792,000)	(3,231,000)	(2,792,000)	(3,231,000)	(3,231,000)	(+439,000)
(Transfer from P.L. 480)	(1,005,000)	(1,035,000)	(1,005,000)	(1,035,000)	(1,035,000)	(+30,000)
Total, Program level	(124,775,000)	(137,141,000)	(128,005,000)	(138,561,000)	(135,561,000)	(+10,786,000)
Public Law 480 Program Account:						
Title I - Credit sales:						
Program level	(316,342,000)	(232,849,000)	(230,305,000)	(232,849,000)	(240,805,000)	(-75,537,000)
Direct loans	(291,342,000)	(218,944,000)	(216,400,000)	(218,944,000)	(226,900,000)	(-64,442,000)
Ocean freight differential	25,000,000	13,905,000	13,905,000	13,905,000	13,905,000	-11,095,000
Title II - Commodities for disposition abroad:						
Program level	(821,100,000)	(837,000,000)	(837,000,000)	(837,000,000)	(837,000,000)	(+15,900,000)
Appropriation	821,100,000	837,000,000	837,000,000	837,000,000	837,000,000	+15,900,000
Title III - Commodity grants:						
Program level	(50,000,000)	(40,000,000)	(29,500,000)	(40,000,000)	(29,500,000)	(-20,500,000)
Appropriation	50,000,000	40,000,000	29,500,000	40,000,000	29,500,000	-20,500,000
Loan subsidies	236,162,000	179,082,000	177,000,000	179,082,000	185,589,000	-50,573,000
Salaries and expenses:						
General Sales Manager	1,005,000	1,035,000	1,005,000	1,035,000	1,035,000	+30,000
Farm Service Agency	745,000	783,000	745,000	783,000	745,000	.....
Subtotal	1,750,000	1,818,000	1,750,000	1,818,000	1,780,000	+30,000
Total, Public Law 480:						
Program level	(1,187,442,000)	(1,109,849,000)	(1,096,805,000)	(1,109,849,000)	(1,107,305,000)	(-80,137,000)
Appropriation	1,134,012,000	1,071,805,000	1,059,155,000	1,071,805,000	1,067,774,000	-66,238,000
CCC Export Loans Program Account:						
Loan guarantees:						
Short-term export credit	(5,200,000,000)	(5,000,000,000)	(5,500,000,000)	(5,500,000,000)	(5,500,000,000)	(+300,000,000)
Intermediate-term export credit	(500,000,000)	(500,000,000)	.....	.....	.....	(-500,000,000)
Loan subsidy	374,347,000	390,000,000	390,000,000	390,000,000	390,000,000	+15,653,000
Salaries and expenses (Export Loans):						
General Sales Manager	2,792,000	3,231,000	2,792,000	3,231,000	3,231,000	+439,000
ASCS	589,000	623,000	589,000	589,000	589,000	.....
Total, CCC Export Loans Program Account	377,728,000	393,854,000	393,381,000	393,820,000	393,820,000	+16,092,000
Total, title V, Foreign Assistance and Related Programs	1,627,542,000	1,598,534,000	1,576,744,000	1,599,920,000	1,592,889,000	-34,653,000
(By transfer)	(8,973,000)	(4,266,000)	(3,797,000)	(4,266,000)	(4,266,000)	(-4,707,000)
TITLE VI - RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Food and Drug Administration						
Salaries and expenses, direct appropriation	819,971,000	823,771,000	819,971,000	819,971,000	819,971,000	.....
Prescription drug user fee act	(84,723,000)	(87,528,000)	(87,528,000)	(87,528,000)	(87,528,000)	(+2,805,000)
Mammography clinics user fee	(13,000,000)	(13,403,000)	(13,403,000)	(13,403,000)	(13,403,000)	(+403,000)
Total, Program level	(917,694,000)	(924,702,000)	(920,902,000)	(920,902,000)	(920,902,000)	(+3,208,000)
Buildings and facilities	12,150,000	8,350,000	21,350,000	21,350,000	21,350,000	+9,200,000
Rental payments	46,294,000	46,294,000	46,294,000	46,294,000	46,294,000	.....
Total, Food and Drug Administration	878,415,000	878,415,000	887,615,000	887,615,000	887,615,000	+9,200,000
DEPARTMENT OF THE TREASURY						
Financial Management Service: Payments to the Farm Credit System Financial Assistance Corporation	15,453,000	10,290,000	10,290,000	10,290,000	10,290,000	-5,163,000
INDEPENDENT AGENCIES						
Commodity Futures Trading Commission	53,601,000	56,601,000	55,101,000	56,601,000	55,101,000	+1,500,000
Farm Credit Administration (limitation on administrative expenses)	.....	(37,478,000)	(37,478,000)	.....	(37,478,000)	(+37,478,000)
Total, title VI, Related Agencies and Food and Drug Administration	947,469,000	945,306,000	953,006,000	954,506,000	953,006,000	+5,537,000

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1997 (H.R. 3603) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE VIII - SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS, FY 1996						
DEPARTMENT OF AGRICULTURE						
Farm Service Agency						
Agricultural Credit Insurance Fund Program Account:						
Loan subsidy: Emergency disaster loans (contingent emergency appropriation)	.....	.....	.....	25,000,000	32,244,000	+32,244,000
Loan authorization: Emergency disaster loans	.....	.....	.....	(85,208,000)	(110,000,000)	(+110,000,000)
DEPARTMENT OF THE TREASURY						
Bureau of Alcohol, Tobacco and Firearms:						
Salaries and expenses	.....	.....	.....	12,011,000	12,011,000	+12,011,000
Internal Revenue Service:						
Information systems (rescission)	.....	.....	.....	-16,500,000	-16,500,000	-16,500,000
Total, title VIII, Supplemental Appropriations and Rescissions, FY 1996 (net)	.....	.....	.....	20,511,000	27,755,000	+27,755,000
Scorekeeping adjustments	-235,780,000	127,050,000	-368,000,000	-396,511,000	-437,755,000	-201,975,000
Grand total:						
New budget (obligational) authority	63,087,898,000	58,444,364,000	52,684,037,000	53,899,792,000	52,842,118,000	-10,245,780,000
Fiscal year 1997	(63,087,898,000)	(58,444,364,000)	(52,684,037,000)	(53,879,281,000)	(52,814,363,000)	(-10,273,535,000)
Fiscal year 1996 (net)	.....	.....	.....	(20,511,000)	(27,755,000)	(+27,755,000)
Appropriations	.....	.....	.....	(12,011,000)	(12,011,000)	(+12,011,000)
Contingent emergency appropriation	.....	.....	.....	(25,000,000)	(32,244,000)	(+32,244,000)
Rescissions	.....	.....	.....	(-16,500,000)	(-16,500,000)	(-16,500,000)
(By transfer)	(672,070,000)	(618,631,000)	(613,918,000)	(614,425,000)	(614,387,000)	(-57,683,000)
(Loan authorization)	(14,018,457,000)	(14,202,407,000)	(13,440,925,000)	(13,589,061,000)	(13,583,122,000)	(-435,335,000)
(Limitation on administrative expenses)	(106,245,000)	(155,447,000)	(144,697,000)	(107,219,000)	(144,697,000)	(+38,452,000)
(Limitation on obligations)	(187,865,000)	(189,000,000)	(187,865,000)	(187,865,000)	(187,865,000)	.....

1/ Such sums as available from AQI user fee account for FY 1996. In addition, $24,857,000 is anticipated from farm bill direct appropriations.
2/ In addition to appropriation.
3/ The Administration proposed funding for this account under the name "Rural performance partnership program".

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

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

Mr. Speaker, I would first like to salute the chairman of this committee, Mr. SKEEN, who has done an extraordinarily good job over the last 2 years under very difficult circumstances. As I have said before, this is the most bipartisan subcommittee in the House. I think that that is the case because of the leadership of Mr. SKEEN. I have enjoyed serving with him. It has been a tough job for him and the entire staff. He has done an excellent job in preparing this conference committee report.

We have responded to the need to reduce spending. We have done it. We have done it in a way that will not imperil food and fiber production across America. It will cause some discomfort, I am sure. The cutbacks will affect some people, but I think we have done our job in a responsible way.

Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I commend the gentleman. We will be missing him, certainly, in the next Congress but certainly hoping we will still be able to deal with him.

I would just like to put the committee on notice to be concerned about certain imports of products that are damaging American farmers. Mexican tomatoes coming in here at $2 being dumped, when it costs $6 for Florida farmers to produce them, Australian beef coming down through Canada. We are damaging and destroying many beef producers in our country.

I would just like to place the committee on notice to take a look at these issues. I believe that our agriculture policies are hurting many farmers at this point and we need more oversight.

Mr. POMEROY. Mr. Speaker, I rise to speak on the conference report for the fiscal year 1997 Agriculture Appropriations Act. In general this conference report represents a vast improvement from the bill that passed the House earlier this year. Among the most important improvements from the point-of-view of North Dakota was the elimination of the sugar price cap included in the House passed bill. This important improvement is a validation of the 7-year commitment to sugar producers made by Congress when it passed the new farm bill this spring. The conferees also restored $2 million in funding for State Agriculture Mediation Grant program which aids farmers in settling debt disputes. Finally the conferees agreed to increase funding for the grain inspection, packer and stockyards administration so it can implement recommendations from the recent Commission on Concentration in Agriculture. These are important victories for North Dakota producers and for farm families nationwide.

I am quite disappointed, however, by the conferees' decision to leave out a remedy for our Nation's barley producers which was included during Senate consideration of the bill. The Senate, during debate on the fiscal year 1997 appropriations bill, included language to move $20 million from payments in the years 1999–2002—$5 million each year—to fiscal year 1998 in order to make up for this year's shortfall. This represented a step toward fulfilling the promises made to barley producers earlier this year. The conferees, however, decided to eliminate this important and needed provision from the final conference report.

This fix was needed to live up to the promises made during the farm bill debate earlier this year. Barley producers were promised a transition payment of 46 cents per bushel under the production flexibility contracts. From November until April this estimate stood as the payment barley producers expected from participation in the new program. Many made financial and planting plans based on this figure.

Once the new farm bill was signed into law, however, barley producers discovered an error had been made in estimating the payments. Barley would now be eligible for a 32-cent payment, over a 30-percent decrease from the promised amount, and a much steeper decrease from the estimates promised to other commodities. Nationwide this decrease amounts to over $20 million in lost income to barley producers in 1997.

The decision by the conferees to reject the temporary fix adopted by the Senate only reaffirms the unfair treatment of barley farmers, and should not stand. I will continue to search for a way to correct his error that will leave many barley producers shortchanged under the new farm bill.

Mr. FAZIO of California. Mr. Speaker, I rise in support of H.R. 3603, the Agriculture appropriations bill for fiscal year 1997.

The appropriations process historically has been a process emphasizing bipartisanship, compromise, and camaraderie. No bill emphasizes those attributes more than this bill, and no team of Chair and ranking member puts those attributes on display better than the team of JOE SKEEN and DICK DURBIN for the past 3 years. It has been a pleasure to be associated with them and their bipartisan handiwork in this bill.

H.R. 3603 is not a perfect bill. The discretionary spending in this bill is $350 million below fiscal year 1996 and $1.1 billion less than President Clinton requested.

We really have to ask ourselves how long we expect to continue this trend and believe it somehow has no impact. Over a number of years, we have cut back our trade promotion efforts, our commitment to rural development, and our agricultural research and extension activities. The impact is being felt by our farmers, our rural communities, and our land-grant institutions. In addition, USDA is feeling the squeeze as it provides services to our farmers and farm communities, and as it carries out its important missions of animal and plant inspection and food safety.

These are worrisome long-term trends that I hope will be addressed in the years to come, but JOE SKEEN and DICK DURBIN have done a good job with this conference report under demanding circumstances.

Fortunately, cooler heads in the leadership prevailed, and we were able to achieve a more generous final allocation that increased the House bill by $158 million. The majority of this money was allocated to unmet needs of our rural communities—both rural housing loans, and water and sewer loans.

I was also pleased that the conferees included a House provisions, authored by our colleague MARCY KAPTUR, to require farmers actually to plant a crop to receive payments under the new farm bill. This was a commonsense provision, and it was revised to take into account disasters, conservation uses and other sensible exceptions, but it is an important affirmation of our intentions in the 1996 farm bill.

I have particular praise for several items of importance to California agriculture and to my district.

First, funds have been included for an important integrated pest management research facility at the University of California at Davis.

Recent passage of the pesticides and food safety bill after a long stalemate is a reflection that the use of agricultural pesticides and the effect on health are of the greatest concern to the American public. Minimizing the use of pesticides while continuing the crop yields that Americans expect which, in turn, produce such low cost food products must continue to be a priority.

It is imperative that we have the up-to-date facilities to develop effective methods to deal with pests, especially in California. California has been the Nation's top agricultural producer since 1948, and America depends upon the wide variety of agricultural commodities that are produced. Yet, in a State where a new pest is introduced every 60 days, we are particularly susceptible to pest infestation. This facility will support and accelerate research needed for environmentally compatible pest management strategies.

Second, the bill includes mandatory funds for the Market Access Program [MAP].

Agriculture exports, projected to exceed $50 billion again this year—up from $43.5 billion for fiscal year 1994—are vital to the United States. And there is probably no more important tool for export promotion than MAP, especially for California's specialty crop production.

Third, the conference agreement has put the additional allocation to good use with regard to research and extension activities and support for our land-grant institutions. Agricultural research will take on even greater importance in the years to come as farmers make the transition to a full market-oriented farm economy envisioned by the 1996 farm bill.

In that light, it is important that we sustain and hopefully increase our commitment to research through the agricultural research stations of the Agricultural Research Service, thought the formula funding for our land-grant institutions, and through the special grants and competitive grants in the Cooperative State Research Education and Extension Service. Only through such investments can we maintain the U.S. lead in agriculture and enable it to continue its significant and positive impact on our economy.

In summary, this is a good bill given our budgetary circumstances and given the many needs and many issues within the committee's jurisdiction. I commend Chairman JOE SKEEN and ranking member DICK DURBIN for their efforts in support of American agriculture, and I

urge my colleagues to support the conference report on H.R. 3603, the Agriculture appropriations bill for fiscal year 1997.

Mr. WALSH. Mr. Speaker, I rise in support of H.R. 3603 and its accompanying conference report that provides funding for Agriculture, Rural Development, Food and Drug Administration and related agencies programs for fiscal year 1997. I want to commend subcommittee chairman SKEEN and ranking member Mr. DURBIN for their leadership and fine work in crafting this difficult bill. I also would like to thank the subcommittee staff for their diligence and for the long hours they spent putting together this bill.

This bill provides $53.3 billion for Agricultural appropriations. This represents a reduction of $10.3 billion from last year's level. Discretionary spending in our bill has been reduced by $350 million, forcing our subcommittee to make some difficult choices. We have had to consolidate and reduce spending on a number of rural development and rural housing programs and spending in this bill is still woefully inadequate to meet the needs of those rural communities seeking water and sewer loans.

Fortunately, there are many positive areas in this bill that deserve special recognition. For one, we were finally successful in reforming the section 515 low-income housing program. This multifamily rural rental housing program assists elderly, disabled and low-income working families in securing affordable housing. In this bill we have extended the section 515 program for another year and have permitted funding to be used for construction of new affordable housing units. This program has been in need of reform for years and I am hopeful that these overdue changes will enable us to operate this program more efficiently so that we will be able to provide increased funding to the program in future years.

In this bill we have also significantly increased spending on nutrition and feeding programs. We have provided $8.7 billion for child nutrition programs such as the school lunch and school breakfast programs and $27.6 billion for food stamps. The important WIC program is funded at last year's level of $3.73 billion. With the large carryover balances in the WIC account, we are within reach of full funding for WIC, a goal that I believe its shared by all Members of Congress.

We have also provided the administration's full request of $574 million for the Food Safety and Inspection Service. Ensuring the safety of our Nation's food supply is one of the highest priorities in this bill. We are committed to providing the Food Safety and Inspection Service with the needed funding required to maintain the current inspection system while providing the needed investments required to implement the new hazard analysis and critical control point [HACCP] meat and poultry inspection system.

This bill also provides critical resources to the Natural Resources Conversation Service that will enable them to provide planning and technical assistance for watershed projects and to help farmers implement conservation compliance plans on highly erodible lands. We need to do a better job in controlling soil erosion and protecting environmentally sensitive crop lands. We do that in our bill by providing strong funding levels for conservation operations, the conservation reserve program, the wetlands reserve program and the newly created environmental quality incentives program [EQUIP].

One of my major regrets in this bill is the failure to include the Northern Forest Stewardship Act in the agriculture appropriations conference report. The Northern Forest Stewardship Act is bipartisan legislation that positively balances the environmental and economic future of resource-dependent communities in northern New England and New York. This bill represents a carefully, crafted compromise based on the recommendations of the northern forest land council. Foresters, conservationists, and recreationists have worked together to develop a plan of action that protects the scenic and wildlife resources of the region while preserving the economic timber base of the region and without infringing on the rights of landowners. We must protect and enhance the forest health, forest economies and community development of these northern forests for current and future generations. I strongly support this consensus approach to preserving our treasured natural resources.

The decision by the Agriculture Appropriation Subcommittee conferees to not include riders, or potentially controversial authorization language on our bill, led our subcommittee to reluctantly drop the Northern Forest Stewardship Act from the conference report. Nevertheless, I plan on continuing to work closely with my northeastern colleagues to find a way that expedites passage of the Northern Forest Stewardship Act in this Congress.

In spite of my reservations on a few specific provisions in the bill I believe that the bill overall is a good one. We have done the best we can with the resources available to us and I urge Members to support this bill and yield back the balance of my time.

Mr. DURBIN. Mr. Speaker, I yield back the balance of my time.

Mr. SKEEN. Mr. Speaker, I want to express my appreciation for the remarks that were made by the ranking member and say that he set a good example for me and we followed through on exactly that kind of demeanor. I, too, want to say to him that he has been a delight to work with and is certainly a great gentleman in this body and we will see what happens after the election.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

Pursuant to clause 5 of rule I, further proceedings on the conference report will be postponed until after the vote on the legislative branch appropriations conference report.

CONFERENCE REPORT ON H.R. 3754, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1997

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 3754.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to the provisions of clause 7 of rule XV, the yeas and nays are ordered.

The Chair will reduce to 5 minutes the time for the next electronic vote.

The vote was taken by electronic device, and there were—yeas 397, nays 22, not voting 14, as follows:

[Roll No. 386]

YEAS—397

Abercrombie	Collins (IL)	Gephardt
Ackerman	Collins (MI)	Geren
Allard	Combest	Gibbons
Andrews	Condit	Gilchrest
Archer	Costello	Gillmor
Armey	Cox	Gilman
Bachus	Coyne	Gonzalez
Baesler	Cramer	Goodlatte
Baker (CA)	Crane	Goodling
Baker (LA)	Crapo	Gordon
Baldacci	Cremeans	Goss
Ballenger	Cubin	Graham
Barcia	Cummings	Greene (UT)
Barr	Cunningham	Greenwood
Barrett (NE)	Danner	Gunderson
Barrett (WI)	Davis	Gutierrez
Bartlett	de la Garza	Gutknecht
Barton	Deal	Hall (OH)
Bass	DeFazio	Hall (TX)
Bateman	DeLauro	Hamilton
Becerra	DeLay	Hancock
Beilenson	Dellums	Hansen
Bentsen	Deutsch	Harman
Bereuter	Diaz-Balart	Hastert
Berman	Dickey	Hastings (FL)
Bevill	Dicks	Hastings (WA)
Bilbray	Dingell	Hayes
Bilirakis	Dixon	Hayworth
Bishop	Doggett	Hefley
Bliley	Dooley	Hefner
Blumenauer	Doolittle	Heineman
Blute	Dornan	Herger
Boehlert	Doyle	Hilleary
Boehner	Dreier	Hilliard
Bonilla	Duncan	Hinchey
Bonior	Dunn	Hobson
Bono	Durbin	Hoekstra
Borski	Edwards	Hoke
Boucher	Ehlers	Holden
Brewster	Ehrlich	Horn
Browder	English	Hostettler
Brown (CA)	Ensign	Houghton
Brown (FL)	Evans	Hoyer
Brown (OH)	Everett	Hunter
Bryant (TN)	Ewing	Hutchinson
Bryant (TX)	Farr	Hyde
Bunn	Fattah	Inglis
Bunning	Fawell	Jackson (IL)
Burr	Fazio	Jackson-Lee (TX)
Burton	Fields (LA)	Jefferson
Buyer	Fields (TX)	Johnson (CT)
Callahan	Flake	Johnson (SD)
Calvert	Flanagan	Johnson, E. B.
Camp	Foglietta	Johnson, Sam
Campbell	Foley	Jones
Canady	Forbes	Kanjorski
Cardin	Fowler	Kaptur
Castle	Fox	Kasich
Chabot	Frank (MA)	Kelly
Chambliss	Franks (CT)	Kennedy (MA)
Christensen	Franks (NJ)	Kennedy (RI)
Chrysler	Frelinghuysen	Kennelly
Clay	Frisa	Kildee
Clayton	Frost	Kim
Clement	Funderburk	King
Clinger	Furse	Kingston
Clyburn	Gallegly	Kleczka
Coburn	Gejdenson	Klink
Collins (GA)	Gekas	

Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Zeliff
Zimmer

NAYS—22

Chenoweth
Coble
Coleman
Conyers
Cooley
Eshoo
Filner
Ganske
Green (TX)
Jacobs
Johnston
LoBiondo
Miller (CA)
Nadler
Roemer
Sanford
Scarborough
Schroeder
Sensenbrenner
Stearns
Stockman
Stump
Waters
Wilson
Young (AK)
Young (FL)

NOT VOTING—14

Brownback
Chapman
Engel
Ford
Istook
McDade
Murtha
Peterson (FL)
Riggs
Towns

□ 1102

Mrs. SCHROEDER, Ms. ESCHOO, and Messrs. SCARBOROUGH, GANSKE, and NADLER changed their vote from "yea" to "nay."

Ms. FURSE changed her vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 386, I was unable to be present due to personal business. Had I been present, I would have voted "yea."

CONFERENCE REPORT ON H.R. 3603, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The SPEAKER pro tempore (Mr. LAHOOD). The pending business is the question of agreeing to the conference report on the bill, H.R. 3603.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to the provisions of clause 7, rule XV, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 379, nays 42, not voting 12, as follows:

[Roll No. 387]

YEAS—379

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
English
Ensign
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Sabo
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Zeliff

NAYS—42

Andrews
Bass
Chabot
Conyers
Dellums
Doggett
Eshoo
Fattah
Foglietta
Frank (MA)
Franks (NJ)
Frelinghuysen
Hoke
Jacobs
Johnston
LoBiondo
Lofgren
Meehan
Menendez
Miller (CA)
Miller (FL)
Nadler
Owens
Payne (NJ)
Rohrabacher
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanford
Scarborough
Schumer
Sensenbrenner
Stark
Stearns
Stockman
Torkildsen
Volkmer
Williams
Yates
Zimmer

NOT VOTING—12

Brownback
Chapman
Engel
Ford
McDade
Murtha

Peterson (FL)	Towns	Wilson
Riggs	Waters	Young (FL)

□ 1112

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

House Resolution 496 was laid on the table.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 387, I was unable to be present due to personal business. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, on rollcall 387, the conference report to accompany the bill, H.R. 3603, the Agriculture Appropriations Act for Fiscal Year 1997, I inadvertently voted "yea." I intended to vote "nay."

PROVIDING FOR CONSIDERATION OF H.R. 123, ENGLISH LANGUAGE EMPOWERMENT ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 499 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 499

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 123) to amend title 4, United States Code, to declare English as the official language of the Government of the United States. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Economic and Educational Opportunities now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 3898. That amendment in the nature of a substitute shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI are waived. No other amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1115

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

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 499 is a modified closed rule providing for consideration of H.R. 123, the English Language Empowerment Act of 1996. House Resolution 499 waives points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI, regarding 3 day availability of committee reports. The rule provides for 1 hour of debate equally divided between the chairman and ranking minority member of the Committee on Economic and Educational Opportunities.

The rule further makes in order, for the purpose of amendment, an amendment in the nature of a substitute consisting of the text of H.R. 3898. The rule waives points of order against the amendment in the nature of a substitute for failure to comply with clause 7 of rule 16, relating to germaneness.

The rule also provides for the consideration of the amendments printed in the Rules Committee report on the rule only in the order specified; if offered by the Member designated in the report; debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent; and which shall not be subject to amendment or a division of the question in the House or the Committee of the Whole.

House Resolution 499 waives all points of order against the amendments printed in the report. The rule also authorizes the Chair to postpone and cluster votes on amendments.

Finally, the resolution provides for a motion to recommit with or without instructions as is the right of the minority.

The rule for this bill is a fair one. House Resolution 499 allows for an hour of debate on a minority substitute, and specified time for a number of amendments which give those in opposition the opportunity to refine the bill. I believe the Rules Committee has been extraordinarily fair and prudent in that minority amendments outnumber majority amendments by a count of 4 to 1.

Mr. Speaker, the English Language Empowerment Act of 1996 is designed to empower a new generation of immigrants. This bill declares that English is the official language of the Federal Government, mandates that the Federal Government conduct its business in English, eliminates the Federal bilingual ballot requirement, and requires officials to conduct naturalization ceremonies in English.

This bill assures that we have a uniform government policy that does not undercut incentives to learn English and is consistent with established immigration policy that new citizens demonstrate an ability to read, write, and speak English. It is a modest bill which does not restrict, in any way, the use of foreign languages in homes, neighborhoods, churches, or private businesses.

The argument will be made that this bill will result in cost savings to the American taxpayer as a result of the termination of documents and services currently provided in different languages. I agree that it is unrealistic that the Government should accommodate the printing of government materials in countless languages, and some cost savings will be achieved. This debate, however, is about more than simply the cost in dollars. For the past three decades we have come to realize that well-meaning programs intended to help have actually evolved into programs that hinder the advancement of our citizens. In this case, costly bilingual policies have acted as a disincentive to some immigrants who have been encouraged to use their native languages rather than learn English.

The problem again is not that the Government has done too little—it is that the Government is doing too much. In this case, the Government's actions are inhibiting the social and economic advancement of new immigrants.

Throughout this Nation's history, we have opened our ports to immigrants from countries across the globe, and

each generation of immigrants has understood the importance of learning to communicate in English. New immigrants continue to understand that the knowledge of a common language will propel them along the road to prosperity and will unite all immigrants with a common bond as Americans.

Unfortunately, this Government is impeding their integration into American society. This legislation will facilitate the opportunities for non-English speaking persons in this country, and I disagree with the argument that this bill would isolate them from society.

It is the failure to promote English as our common and unifying language that has hindered some Americans from building a solid future for their families and gaining access to the American dream.

During a meeting with a group of businessmen I asked a gentleman who had immigrated to the United States why his community has achieved such great educational and professional accomplishments in this country, and he proudly responded that there were two reasons for this success in the United States—intact families and the adoption of the English language.

It is becoming painfully clear that those who have not adopted the English language have had a much more difficult time achieving success in our schools, in our businesses, and in our society. For those who use English, we have seen a great rise in achievement.

Mr. Speaker, this is an equitable rule that permits opponents of the bill the opportunity to alter extensively the original bill. I urge my colleagues to support the rule so that we may proceed with consideration of a bill that I believe will help to open the door to the American dream to more of our follow Americans.

Mr. Speaker, I include the following material from the Committee on Rules for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of July 31, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-Open[2]	46	44	81	59
Structured/Modified Closed[3]	49	47	39	28
Closed[4]	9	9	17	13
Total	104	100	137	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A structured or modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of July 31, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–199; A: 227–197 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of July 31, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 249–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands	PQ: 221–197 A: voice vote (5/15/96).
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	Tabled (4/17/96).
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	C	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/19/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/21/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	PQ: 232–180 A: 232–177, (3/28/96).
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	PQ: 229–186 A: Voice Vote (3/29/96).
H. Res. 395 (3/29/96)	MC	H.J. Res. 159	Tax Limitation Const. Amdmt.	PQ: 232–168 A: 234–162 (4/15/96).
H. Res. 396 (3/29/96)	O	H.R. 842	Truth in Budgeting Act	A: voice vote (4/17/96).
H. Res. 409 (4/23/96)	O	H.R. 2715	Paperwork Elimination Act	A: voice vote (4/24/96).
H. Res. 410 (4/23/96)	O	H.R. 1675	Natl. Wildlife Refuge	A: voice vote (4/24/96).
H. Res. 411 (4/23/96)	C	H.J. Res. 175	Further Cont. Approps. FY 1996	A: voice vote (4/24/96).
H. Res. 418 (4/30/96)	O	H.R. 2641	U.S. Marshals Service	PQ: 219–203 A: voice vote (5/1/96).
H. Res. 419 (4/30/96)	O	H.R. 2149	Ocean Shipping Reform	A: 422–0 (5/1/96).
H. Res. 421 (5/2/96)	O	H.R. 2974	Crimes Against Children & Elderly	A: voice vote (5/7/96).
H. Res. 422 (5/2/96)	O	H.R. 3120	Witness & Jury Tampering	A: voice vote (5/7/96).
H. Res. 426 (5/7/96)	O	H.R. 2406	U.S. Housing Act of 1996	PQ: 218–208 A: voice vote (5/8/96).
H. Res. 427 (5/7/96)	O	H.R. 3322	Omnibus Civilian Science Auth	A: voice vote (5/9/96).
H. Res. 428 (5/7/96)	MC	H.R. 3286	Adoption Promotion & Stability	A: voice vote (5/9/96).
H. Res. 430 (5/9/96)	S	H.R. 3230	DoD Auth. FY 1997	A: 235–149 (5/10/96).
H. Res. 435 (5/15/96)	MC	H. Con. Res. 178	Con. Res. on the Budget, 1997	PQ: 227–196 A: voice vote (5/16/96).
H. Res. 436 (5/16/96)	C	H.R. 3415	Repeal 4.3 cent fuel tax	PQ: 221–181 A: voice vote (5/21/96).
H. Res. 437 (5/16/96)	MO	H.R. 3259	Intell. Auth. FY 1997	A: voice vote (5/21/96).
H. Res. 438 (5/16/96)	MC	H.R. 3144	Defend America Act	
H. Res. 440 (5/21/96)	MC	H.R. 3448	Small Bus. Job Protection	A: 219–211 (5/22/96).
	MC	H.R. 1227	Employee Commuting Flexibility	
H. Res. 442 (5/29/96)	O	H.R. 3517	Mil. Const. Approps. FY 1997	A: voice vote (5/30/96).
H. Res. 445 (5/30/96)	O	H.R. 3540	For. Ops. Approps. FY 1997	A: voice vote (6/5/96).
H. Res. 446 (6/5/96)	MC	H.R. 3562	WI Works Waiver Approval	A: 363–59 (6/6/96).
H. Res. 448 (6/6/96)	MC	H.R. 2754	Shipbuilding Trade Agreement	A: voice vote (6/12/96).
H. Res. 451 (6/10/96)	O	H.R. 3603	Agriculture Appropriations, FY 1997	A: voice vote (6/11/96).
H. Res. 453 (6/12/96)	O	H.R. 3610	Defense Appropriations, FY 1997	A: voice vote (6/13/96).
H. Res. 455 (6/18/96)	O	H.R. 3662	Interior Approps, FY 1997	A: voice vote (6/19/96).
H. Res. 456 (6/19/96)	O	H.R. 3666	VA/HUD Approps	A: 246–166 (6/25/96).
H. Res. 460 (6/25/96)	O	H.R. 3675	Transportation Approps	A: voice vote (6/26/96).
H. Res. 472 (7/9/96)	O	H.R. 3755	Labor/HHS Approps	PQ: 218–202 A: voice vote (7/10/96).
H. Res. 473 (7/9/96)	MC	H.R. 3754	Leg. Branch Approps	A: voice vote (7/10/96).
H. Res. 474 (7/10/96)	MC	H.R. 3396	Defense of Marriage Act	A: 290–133 (7/11/96).
H. Res. 475 (7/11/96)	O	H.R. 3756	Treasury/Postal Approps	A: voice vote (7/16/96).
H. Res. 479 (7/16/96)	O	H.R. 3814	Commerce, State Approps	A: voice vote (7/17/96).
H. Res. 481 (7/17/96)	MC	H.R. 3820	Campaign Finance Reform	PQ: 221–193 A: 270–140 (7/25/96).
H. Res. 482 (7/17/96)	MC	H.R. 3734	Personal Responsibility Act	A: 358–54 (7/18/96).
H. Res. 483 (7/18/96)	O	H.R. 3816	Energy/Water Approps	A: voice vote (7/24/96).
H. Res. 488 (7/24/96)	MO	H.R. 2391	Working Families	A: 228–175 (7/26/96).
H. Res. 489 (7/25/96)	MC	H.R. 2823	Dolphin Conservation Program	A: voice vote (7/31/96).
H. Res. 499 (7/31/96)	MC	H.R. 123	English Language Empowerment	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; S/C-structured/closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

Mr. Speaker, we strongly oppose this modified closed rule for the bill designating English as the official language of the Government of the United States and requiring that most official business be conducted only in English. We believe this is a bad rule for an equally bad piece of legislation.

We oppose this legislation in such strong terms for many reasons: It is unnecessary; it is without doubt unconstitutional; it will increase litigation by creating a new private right of legal action in Federal court; it is offensive, insulting and denigrating to millions of Americans; and it is divisive at a time that we need to unite our country and its citizens.

Mr. Speaker, we fail to understand the need for this legislation of such dubious value. According to the Census Bureau figures, English is spoken by

over 97 percent of the American people. A recent General Accounting Office report tells us that less than .1 percent of all Federal documents are printed in foreign languages; thus, more than 99.9 percent are already printed in English.

The fact that English language classes across the country have long waiting lists attests to the fact that laws are not needed to encourage people to learn English.

What those who do not speak English will need is access to more educational programs that teach English, but this bill does nothing whatsoever to help meet that need. Mr. Speaker, the way to further the primacy of English is to put more resources into efforts to expand English proficiency and literacy, not to pass legislation of such questionable value as this.

We already know that English-only laws such as H.R. 123 are subject to serious constitutional challenge, an important point that the proponents appear to have overlooked.

In a 1923 case, the Supreme Court wrote that:

> The protection of the Constitution extends to all, to those who speak other languages as well as those born with English on the tongue. Perhaps it would be advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution.

The presumptive unconstitutionality of H.R. 123 was fortified more recently by a U.S. Circuit Court of Appeals ruling that Arizona's English-only mandate violates the first amendment and in "unconstitutional in its entirety." No doubt that reasoning would apply as well to this Federal English-only legislation, which we believe clearly violates the first amendment guarantee of free speech.

As if all this were not bad enough, Mr. Speaker, the rule making this bill in order is unfair and limited beyond good reason. At the very least, if we must consider a bill as repugnant as this one, then we should have had, if not a completely open rule, at least one that is more open and much less restrictive than the rule we are now considering.

In recognition of the announcement by our chairman that only certain amendments would be made in order, the minority members of the Rules Committee chose 5 of the more than 20 amendments submitted by Democrats as our priorities. But only one of those five was accepted and is made in order by this rule.

Inrerestingly the majority did see fit to allow three other amendments submitted by Democrats, none of which was on our priority list. We are somewhat puzzled by that decision, and suspect that they address issues the majority itself wanted to be taken up.

The Serrano amendment that is permitted under the rule was our first priority. It is a very thoughtful attempt to establish a language policy for the United States that does not infringe on indigenous languages and does not place undue burdens on one's ability to obtain services from the Federal Government because of limited English proficiency. Instead of imposing the divisive and restrictive policies in H.R. 123 that infringe on constitutional rights, the Serrano amendment encourage diversity and opportunity. We encourage our colleagues to support that amendment.

It is a key amendment. We are pleased that it is made in order. Unfortunately, four others that are just as essential to making the debate on the bill complete were not approved by the majority.

We feel strongly that we should have been allowed a vote on the amendment striking repeal of the bilingual election requirements of the Voting Rights Act. The bilingual provision that the rule incorporates into H.R. 123 is a major change in existing law and policy. Members deserve the opportunity to vote separately on such radical action. The rule is in essence protecting the repeal of a fundamental part of our voting rights law; it should not be allowed to go unchallenged.

If we truly want to encourage people to speak English, then English training for all who seek it should be available. However, the majority denied our request that an amendment for that purpose be made in order.

We were also denied the right to vote on striking another major provision in the bill, the section permitting any individual to sue in Federal court if they believe this legislation has been violated.

We do not believe there is a need for this new right to sue, especially when so much of our effort in this Congress have been to discourage the wave of litigation that seems to be sweeping over the country. This is a serious issue that Members will not have the opportunity to vote on under this restrictive rule.

We also asked earlier that the amendment of the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] be made in order to provide that any agency can communicate orally or in writing in a language other than English if doing so will assist the agency in doing its work. This is clearly essential to protect the rights of so many of our citizens, yet our request to make the amendment in order was denied.

Mr. Speaker, we do not believe that allowing votes on only 4 of the over 20 Democratic amendments submitted is far or reasonable. We feel strongly that the four amendments I have just described, as well as several others offered by the gentleman from California [Mr. MARTINEZ] to exempt from the bill's provisions actions or documents from the IRS and the Social Security Administration should be part of this debate.

Clearly, if the majority is willing to make an amendment in order to allow Members of Congress to communicate orally and in writing in a language other that English, then the Martinez amendments giving the same rights to agencies that serve so many of our senior citizens should have been permitted as well.

The bill denies many of those citizens the right to understand clearly and completely some of the most basic functions of their Government, and the functions that affect them most personally and directly. We are especially disappointed that the majority was unwilling to give Members the opportunity to correct that serious failure in the bill.

In closing, Mr. Speaker, we repeat that we find it difficult to understand the reason for this legislation. The use of languages other than English to meet the needs of language minorities in this country does not pose a threat to English because it is already in fact, of course, recognized as the primary language of this country.

But language alone in not the basis for nationhood. Americans are united by principles enumerated by our Constitution and the Bill of Rights: freedom of speech, representative democracy, respect for due process, and equality of protection under the laws. The legislation this rule would make in order is contrary, we believe, to each of those principles.

Mr. Speaker, in closing, we strongly oppose this rule and the bill that it makes in order. We urge our colleagues to defeat the rule so at least some more amendments might be made in order. It is the only proper and fair action we can take.

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

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Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], my colleague on the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my friend from Georgia for yielding and I rise in support of this rule. This is a subject that generates much emotion from all sides—and I applaud this rule for allowing those with opposing views a fair opportunity to be heard.

In my opinion, the uniqueness of America stems from the fact that, although we are a Nation of immigrants hailing from all parts of the world, we have guiding principles enshrined in our Constitution that focus on what we have in common, not what divides us. Throughout the history of this great melting pot, we have demonstrated to the world that it is possible to preserve individual liberties, to uphold the traditions of a vast array of cultural heritages and to still weave a fabric of society that is uniquely American.

But Mr. Speaker, things have changed in recent years. Our society

seems less committed to the idea of a melting pot, less able to focus on the common threads within the fabric of our American society. And that is why we are considering this legislation—because we want to reinforce the English language as one of those threads.

English is, and has always been, the official voice of America. H.R. 123 reaffirms this principle by setting out that the Federal Government will conduct its official business in English—with reasonable exceptions to protect the public health and safety, promote trade and commerce, uphold national security, conduct language education and preserve the integrity of our criminal justice system. I would like to emphasize that this legislation does not preempt any State or local laws. This legislation eliminates the burdensome unfunded mandate of required bilingual ballots, which was originally established by the Voting Rights Act, and which I have long opposed. While the premise of increasing access to the electoral system was well-intentioned, the implementation has become an expensive burden. It has also created unanticipated consequences, including discrimination against English-deficient voters who do not happen to live in heavily concentrated minority areas. I have always believed that the Federal Government should neither require nor prohibit the use, by local communities, of local funds to communicate with their citizens in languages other than English. Repealing the bilingual ballot requirement is an important step in that regard.

Mr. Speaker, H.R. 123 underscores that English is our national language without unduly interfering with the ability of States and localities to deal with their own unique language needs. Reaffirmation of our common language is something a substantial majority of Americans have asked us to do—and I urge my colleagues to support this rule and this bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ].

ROMERO-BARCELÓ. Mr. Speaker, language is an intensely personal form of self-expression. We use it to articulate the full range of human thought and emotion. We use it to convey our thoughts on philosophy. We use it to convey our thoughts on theology and political ideals. We use it to convey sorrow, anger and forgiveness, and we use it to express love for one another.

I think that this bill does precisely the opposite. Instead of being an expression of love for all of the citizens in the Nation, it is the setting aside of those citizens that may not have the proficiency in a language that is a common language of our Nation that others have. It curtails their access and availability of services in the government and to exercise their rights and the fulfillment of their duties and obligations.

Mr. Speaker, I do not know if Members are aware of how many documents can be published, if necessary, in other languages, to inform the public. For instance, Social Security for elderly citizens. We have information about what Social Security is all about. Survivors' benefits. Social Security, what an individual needs to know when they get retirement survivors. Social Security benefits for children with disabilities. Social Security, if an individual is blind, how can we help.

All of these and many, many, many more reports and information are published in other languages when the recipient, when the citizen does not know English well enough. And we do have citizens that do not know English or speak it very little.

In Puerto Rico, we were made citizens in 1917 by law, and we were not asked for the language we spoke, nor have we been asked what language we speak when we are drafted to go in the armed services and service the Nation.

In the Korean war, for instance, we were No. 4 in deaths, even though we were number 25 in population. And how many of those soldiers that were defending the Nation died because maybe they did not understand the orders.

They say that this is done to promote efficiency in English. We do not promote by obligating; we promote by stimulating. We promote by providing opportunities for people to educate themselves, to learn the English. Nothing is being proposed here to stimulate or further encourage or even fund the teaching of English.

I oppose the approval of this rule.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH], who has worked on this issue for many, many years.

Mr. ROTH. Mr. Speaker, I thank my friend from Georgia for yielding me this time, and I appreciate the fine and the fair rule that the Committee on Rules has brought to the floor.

I wish we had more time to debate the issue, but I know at this time that we have a good deal of pressing legislation issues before us.

This is an historic day. I frankly have told many people who have doubted this day would ever come to have faith, that the day would come when the American people's wishes were going to be heard. In every single survey that has been taken on whether English should be our official language, 90 to 97 percent of the people say, yes, English should be our official language, which basically means when we vote, when an individual works with the Federal Government, that we do it in the English language.

The people have spoken and the Congress has listened, and now we can say that Congress has as much common sense as the American people.

We are people from every corner of the globe. We represent every religion, every ethnic group, every Nation under the Sun, but we are one nation, we are one people. Why? Because we have a wonderful commonality, a common glue, called the English language.

Now, in some 80 nations around the world they have official languages; 63 nations have English as the official language, and other nations have various other languages, of course.

The gentleman who just spoke before me is from Puerto Rico. Some of the finest people in the world live in Puerto Rico. But in Puerto Rico they have Spanish as their official language, and rightly so. They should have that right. In Mexico, they have Spanish as their official language. And again, rightly so.

Now, in this country we are told by the National Clearinghouse for Bilingual Education that by the turn of the century, one out of seven Americans will look at English as a foreign language.

Now, Mr. Speaker, as has been said before, in America, we have always had the idea that we are the melting pot, that we are all the same. We do not believe in hyphenated Americans. We are all equal American.

America must continue to be the melting pot. A Nation like America cannot be made up of groups. American is made up of individuals. As Woodrow Wilson said, as long as you consider yourself a part of a group, you are still not assimilated into American society, because America, like other nations, is made up of individuals and not made up of groups.

So today, in this debate, we are discussing this issue from the perspective of over 200 years of American history, of our culture and the things we hold dear. We should look around us in this Chamber today. All of us can take part in this debate. Why? Because we have all adopted English as our language, and this bill will allow us to do that 25, 50, and 100 years from now. Without this bill, we could not do that.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. ROMERO-BARCELÓ. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I wanted to say the previous speaker, who stated that Puerto Rico has Spanish as the official language; in Puerto Rico, both languages are official, Spanish and English. And there are no requirements that we cannot publish in any other languages any official documents. There is no prohibition.

Mr. EDWARDS. Mr. Speaker, reclaiming my time, I appreciate the gentleman's comments.

Mr. Speaker, I find it ironic that some of the very people that will speak

out in behalf of this English-only bill today are the very people who just a few weeks ago voted to cut education programs that helped young American schoolchildren learn English, voted against Head Start programs, voted against adult education funding programs that helped adults even speak English, voted to cut funding for title I that help our low-income Spanish speaking children in Texas learn how to speak English.

To me, in any language, that rhetoric versus that action does not make sense.

It seems to me that the question today is not whether American citizens should be encouraged to learn English, because we all agree that is the language of our country. The question today is what is the best way to encourage and help our citizens become English proficient.

I would suggest English plus is a much better approach than English only. I would suggest that debating education funding would be a better way to spend our time today than debating English only.

The English-only bill before this House today is unnecessary, it is insulting, it is divisive, and it is discriminatory. It is unnecessary because I hardly believe the future of the American republic is at jeopardy because 3 percent of our population speak another language.

It is insulting to millions of Americans, whether intended or not, Americans whose cultures are a part of the fabric of our Nation. To Hispanic-Americans in my home State, this kind of bill brings back the terrible, painful memories when years ago little Hispanic schoolchildren were segregated on the playgrounds and ostracized because they spoke the language, Spanish, of their parents, their families, and their grandparents.

This bill is divisive because in a country of many cultures where we come together, it pits one group against another. Hispanic-Americans and others see this bill as an attack on their culture, upon their values, and, yes, even upon their families.

At a time when we need to bring Americans together by building bridges rather than building barriers between different peoples, this bill separates us and tears us apart.

This bill is discriminatory because it says to many of the elderly in America who have worked hard, supported their families, never been on welfare, and have paid taxes for 20 or 30 or 40 years that we want to make it more difficult for them to vote and to exercise their right as a citizen to participate in this democracy.

Mr. Speaker, for all of those reasons, this bill should not be passed into the law of this land.

Mr. LINDER. Mr. Speaker, I yield 5 minutes to the gentleman from Glens Falls, NY [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this legislation.

Mr. Speaker, today is a historic day, a day in which Congress focuses on those things which unite us as a country, and those which expand the horizons of opportunity for all of our citizens. The English Language Empowerment Act has nothing to do with fear, nothing to do with linguistic cleansing and nothing to do with targeting minority populations for political gain. My support of declaring the English language to be the official language of the Federal Government is based on two simple principles: unity and opportunity.

Mr. Speaker, from the very beginning our Nation has recognized that

> The prosperity of the people of America depended on their continuing firmly united, and the wishes, prayers, and efforts of our best and wisest citizens have been constantly directed to that object.

Now this observation was not made by me, these are the words of wisdom in the Federalist Papers by John Jay, our country's first Chief Justice of the Supreme Court.

John Jay went on to say:

> I have * * * often taken notice that Providence has been pleased to give this one connected country to one united people—a people descended from the same ancestors, speaking the same language * * * attached to the same principles of government, very similar in their manners and customs, and who by their joint counsels, arms, and efforts, fighting side by side throughout a long and bloody war, have nobly established their general liberty and independence.

Based on this premise for the past two centuries, we have forged a nation out of our different peoples by emphasizing our common beliefs, our common ideals, and perhaps most importantly, our common language. Our English language has permitted this country to live up to our national motto, "e pluribus unum"—out of many, one. For most of our Nation's history, the English language has been the key to integrating new Americans as well as the glue that has held our people together. It is in this spirit that this bill has been devised to secure English's central place in our society by making it America's official language.

Now, this devotion to unity and to the English language is not founded upon any bedrock of racism, mean spiritedness or division. Rather it is premised on the belief that our strength in unit can best be preserved through the prevention of divisions along linguistic or cultural lines such as encountered by Canada with Quebec.

Now what do I mean by divisions along linguistic lines? These divisions are not between people, but between opportunities. Americans who do not know English, are segregated from those who do, separated from everything the United States and its precious Constitution stands for. A declaration of English as the official language is necessary to demonstrate that the Federal Government's goal is to desegregate these Americans.

Yesterday in the Rules Committee we heard hours of testimony from members with deeply held concerns with this bill.

Some were puzzled over what problem this bill was trying to solve; others claimed proponents of the bill were afraid that the English language was facing extinction in the United States. Well, let's be clear. This bill is intended to ensure that no American citizen, no matter what their cultural background, no matter whether they live in Puerto Rico, or Iowa, has to be trapped in a linguistic box, kept away from the tools of opportunity. This is the land of opportunity and the language of the land of opportunity is English. There should be no ambiguity about this fact. Current projections show that by the year 2050 more than 20 million people in this country will not be able to speak English well or at all.

That's 20 million people unable to even try to attain the American dream.

The usage and understanding of English is the key to economic and educational opportunity in America. Therefore we as the Federal Government must promote and enhance the ability of all Americans, no matter what their heritage, to read, speak, and understand this language of opportunity. According to a study done by Dr. Richard Vedder and Dr. Lowell Galloway of Ohio University it was found that if immigrant knowledge of English were raised to that of native-born Americans, their income levels would increase by $63 billion a year. It was also concluded that the current situation has trapped 1.5 million immigrants in poverty. The simple truth is that those who cannot function in our country's predominant language are less able to find jobs.

As a result, they are cheated of the opportunity for improvement and happiness that America promises to millions. This bill places the Federal Government in the affirmative position of saying this tragedy is not going to continue.

Furthermore, this bill has nothing to do with what languages we speak in our home, church or organization, or what foreign languages we may wish to learn. This establishes English as the official language of the government, not the private sector. Many of my good friends have expressed the hardships with which their families have sought to learn English while retaining their native tongue.

I applaud them for their efforts and I do not want them to stop doing this. In

fact, Americans should strive to learn other languages as a way of expanding their understanding of the entire world. However, this should not be at the expense of our common tongue.

Winston Churchill once said "the gift of a common language is a priceless inheritance." According to a USA Today poll taken in 1993, 97 percent of the American population agreed with Winston Churchill and supported making English the official language of Government. A more recent study found that 86 percent of Americans and 81 percent of immigrants want to make English the official language.

Now some of my colleagues have claimed that this bill preys upon linguistic minorities in this country, reminding us that Alexis de Tocqueville warned that the danger of democracy was that a majority could exercise tyranny over a minority. While I acknowledge that this is a serious concern, I would also remind my colleagues that before de Toqueville gave this warning he also stated that "the tie of language is, perhaps the strongest and the most durable that can unite mankind." Promoting this tie of language is not an attack on minorities, nor is it an act of self-preservation but it is a ramp to expanded opportunity and freedom for all Americans.

Finally, Mr. Speaker, it must be understood why this bill goes farther than just declaring English to be the official language of government. Yes, it does repeal the bilingual ballot requirement, yes it does require the Federal Government to conduct its written business in English and yes it does require the INS to hold its naturalization ceremonies in English. Do you know why? It is because America is composed of people who have for centuries pulled themselves up by their bootstraps with courage and a vision to pursue the opportunity that America has to offer. All of us at one time or another were immigrants. Our forefathers came here for the same reasons immigrants now come ashore.

America is the land of opportunity and if the Government does not remove the impediments to assuring that these immigrants receive the keys to opportunity here, then I am afraid they will remain in what the New York Times called a bilingual prison. Bilingual ballots, and INS ceremonies and Government documents in other languages continue to uphold the untruth that you can live in America, you can have access to opportunity and you can achieve the American dream without being able to speak English. The Government can no longer mislead the citizenry.

Mr. Speaker, I will close with the observation that 23 States have established English as their official language, 80 countries only print government documents in one language, 323 different languages are currently spoken in the United States, a knowledge of English has been a requirement of U.S. citizenship since 1811, and the bill before us today is supported by the American Legion, the VFW, the Catholic War Veterans, the National Grange, the General Federation of Women's Clubs and many others.

This is a document of opportunity, a vision of unity and a compassionate measure. It deserves America's strongest support.

□ 1145

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, as a public servant and educator, and a mother, I think it would be a great disservice to our children to make English the official language of the land, not only because of the domestic and international ramifications that it would have, but more so for the future of our children. It is time that as Americans we understand what educators, throughout the world already seem to know, that proficiency in many languages ultimately results in increased understanding of others, awareness of other cultures and traditions, and ultimately improvements in our Nation's prosperity and welfare. Today, as a nation, we stand together joined by English as our primary language, and we hold hands as a nation, where our acceptance of diversity has given us greatness.

Chief Supreme Court Justice Earl Warren once said, "We are now at the point where we must decide whether we are to honor the concept of a plural society which gains strength through diversity, or whether we are to have bitter fragmentation that will result in perpetual tension and strife."

As a Cuban-American who immigrated to this country in 1960, I was granted the honor of living here in the United States, a nation where differences, not similarities are the norm and, most of all, a nation where for over 200 years this plural society has been the standard and where speakers of different tongues and persons of diverse cultures, ethnic backgrounds and walks of life have come with one goal: To live, persevere, and succeed in the United States of America, the land of the free and the melting pot of the world.

With the onset of the 104th Congress, there have been proposals made by various of my colleagues that seek to make English the official language of the United States of America and to eliminate bilingual written and oral assistance for language minority voters. Persons who have immigrated in the past, who do so in the present, and who will continue to do so in the future, already understand that in order for them to be able to do well in this great Nation of liberty and freedom, where equality is the law of the land, they must learn English and no law is needed to stress this. Moreover not only do over 97 percent of Americans speak English, but newcomers to our great Nation are learning English faster than ever, thereby making English as the official language a moot point.

There are many benefits to having no official language in a country renowned for our diversity and home to communities where many different languages are heard. Among some of the benefits are those to public health and safety, a better and improved educational system for our children, the continuation of Government access to millions of taxpaying citizens and residents and the creation of a more cohesive American society.

Some would say that we are indeed a diverse nation, that we must provide for a common heritage through the use of the English language. Our heritage, however, is not so much English itself, but instead that regardless of race, color, creed, and our language preference, we have been given the honor of all being Americans.

The fact that we are all members of this great Nation and benefit from its Democratic ideals and liberties is a far more cohesive bond than any language could ever be.

From a more global perspective, it is obvious to all that America today is undoubtedly one of the world's top economic powers. In an everyday more globally interdependent world, where an astonishing four out of five jobs are created through exports, it is necessary that knowledge of other languages be encouraged in order to facilitate our business with the rest of the world and not force others to deal with us strictly in English. Establishing English as our official language would serve to undermine our competitiveness on a global scale.

As a Florida certified teacher and a former owner of a bilingual private school in south Florida, I know this bill will not facilitate the transition for children who have already come to the United States and do not have enough of a grasp of the language to understand challenging subject matters. "English only" legislation would only prove to be a disservice to these children instead of facilitating their learning abilities.

CONGRESSMAN MCDADE ACQUITTED

(By unanimous consent, Mr. SHUSTER was allowed to speak out of order for 1 minute.)

Mr. SHUSTER. Mr. Speaker, it is with a very happy tear in my eye that I announce the wire services are reporting that our colleague, the gentleman from Pennsylvania [Mr. MCDADE] has been acquitted of all charges.

Mr. MURTHA. Mr. Speaker, if the gentleman would yield, let me just add

to what the gentleman from Pennsylvania [Mr. SHUSTER] said. JOE MCDADE has been under investigation for 6 years; under indictment for 2 years; he has been hurt emotionally, physically, and they were challenging the rights of the House during all this period of time.

Mr. Speaker, it really is a win for the House. The House sided with him in every appeal, and I think this is a strong message that goes out that the House of Representatives is a separate body. The jury understood that. We represent people.

Mr. Speaker, JOE MCDADE is one of the finest individuals that I have ever served with, and I have served with him for 23 years on two separate committees, and day by day we sat together. And so I am just delighted to see this, and as the dean of the Pennsylvania delegation, I join with the gentleman from Pennsylvania, Mr. SHUSTER, in our commendation and congratulations to JOE MCDADE, who is such a wonderful individual, and to his family who suffered so much during this period of time.

Mr. WELDON of Pennsylvania. Mr. Speaker, if the gentleman would yield, I thank the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Pennsylvania [Mr. MURTHA] for the words that they spoke today. The two of these gentlemen, as the deans of our delegations respectively, Republican and Democrat, have been there for JOE as friends over the past several very difficult years.

Mr. Speaker, I just want to rise and say it is a tribute to this institution that so many Members of the House on a day-to-day basis asked about JOE MCDADE, asked about his health, about his well-being, about his family. And through a very difficult ordeal it was the Members of this institution, people like the gentleman from New York, Mr. RANGEL, who I understand went up and testified as a character witness for JOE MCDADE, that is a real testimony to the character of this institution.

So, Mr. Speaker, I applaud not just his verdict but the fact that all of us did not cut and run when JOE MCDADE had a charge levied against him. All of us who know JOE personally stood by his side through thick and thin, and all of us can share in that joy today, both Republicans and Democrats.

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

Mr. KING. Mr. Speaker, I thank the gentleman from Georgia for yielding and before I begin my remarks, let me also join the House in congratulating the gentleman from Pennsylvania [Mr. MCDADE]. I am so delighted his long nightmare is over.

Mr. Speaker, I rise in support of the rule and in support of the underlying bill. For the first 180 years of our Nation, immigrants came to our shores knowing that they had to learn the English language to become part of the American mainstream. They maintained their own cultures, their own traditions, their own religion, their own beliefs, their own parades, their own festivals, but they were bound together by the English language.

Growing up in New York City in the 1940's and 1950's, I witnessed this firsthand. I saw the beautiful American mosaic of all the different cultures and belief, bound together with the glue of a common language. Unfortunately, in the past 45 years we have gotten away from that. We have bilingual education, bilingual voting, bilingual programs one on top of the other, which results in dividing us as a Nation, dividing us by language.

Mr. Speaker, if we are to come together as a nation, if we are going to build bridges and reassert and reestablish that beautiful American mosaic, it is essential that this bill be adopted.

Mr. Speaker, I commend the gentleman from California [Mr. CUNNINGHAM] and the gentleman from Wisconsin [Mr. ROTH] for the work they have done over the years. I urge all Members to vote for the bill and vote for the rule.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I rise in strong opposition to the rule here today and its misguided effort to legislate the very obvious: That this Nation already speaks English.

For anyone living in this country, engaging in commerce, seeking an education, or simply just traveling, English is the common language. On the WorldWide Web, English is the official de facto language. The majority of international commerce is conducted in English. Students from around the world vie for a U.S. education and a chance to learn English, and in places with high immigrant populations like my district in Los Angeles, the demand for learning English is so high that people must wait months and, yes, years to attend oversubscribed English classes.

In an age of increased global competition, we should be nurturing our Nation's most valued treasures, the wealth of cultural knowledge and foreign language skills. And today, some of my colleagues would prevent us from capitalizing on the wealth this Nation has accumulated.

Mr. Speaker, we cannot be afraid of language. Language is knowledge. Yes, my friends, we should encourage and I stress "encourage," not legislate, that Americans learn and speak English. But a mandate of this sort that we are considering today could only be described as a veiled intolerance toward non-English-speaking Americans. It is unconstitutional. It is un-American.

Mr. Speaker, I urge my colleagues to take a look at the lawmakers outside of the beltway that have looked at the practical effects of this legislation. Both Governor Bush of Texas and Governor Whitman of New Jersey have spoken out against "English only" mandates. They realize that Americans are an asset and should not be shunned for their language deficiencies.

We are a nation blessed with many differences, and I ask all of my colleagues to look up at the ceiling and read the inscription up there, "E pluribus unum," which means "Out of many, one." We are one because our Constitution and its lasting democratic principles has done this for us.

Our Nation should look to the world with pride for our Nation's differences and we should capitalize on that, and so I urge my colleagues to heed my call for tolerance and work toward the goal of enhancing English as the common language. We should not be mandating it. It is divisive. It is dividing us. It is not the glue that brings us together. The glue that holds America together is the democracy that we practice. It is the tolerance, it is the diversity that we enjoy.

□ 1200

This kind of legislation is unnecessary and is divisive. I urge a "no" vote on the rule.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I say to the gentleman from California, out of many, one. On this side we believe that one means language, too, which is English.

I would like to quote for him and others the late Senator Hayakawa, who said, "America is an open society, more open than any other in the world. People of every race, of every color, of every culture are welcomed here to create a new life for themselves and their families. And what do these people who enter into the American mainstream have in common? English, our shared common language."

For that reason, I rise in strong support of the rule. This Nation of course is a melting pot, finding its strength in our citizens' unique diversity. However, we all share a common unifying bond, our English language. Mastering a nation's original native language is critical to succeeding in a society because it provides one with the opportunity to excel. This is not to say that the study of foreign languages should be discouraged. Quite the contrary, being fluent in a second or third language opens, more often than not, doors to new opportunities and experiences. But if the English language is not the top priority, the doors in our own Nation will remain closed to some, and they will be left behind. When one discourages another from learning

English, they ensure that the non-English-speaking individual is denied their chance at attaining the great American dream.

In a time when college graduates still have difficulty finding employment, what is left for those individuals who cannot communicate proficiently in English? While we continue to cherish the very cultures and heritage of the people that comprise this Nation, we need to have one language that unites and defines us as Americans if we are to ensure our continued success.

Mr. Speaker, we need to communicate in one official language and that is English. That is why I urge support of the rule.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to the rule and the bill. Historically Americans have struggled to build a democratic society in which all citizens have equal access and opportunity. To ensure that every citizen was informed, our forefathers printed Government documents in German, French, and other languages. In 1975, the Nixon-Ford administration recognized the importance of an informed electorate and successfully led the fight for bilingual ballots to help eliminate discrimination in the electoral process.

Given our country's great history, it is a disgrace that we have this divisive and unnecessary bill before us, divisive in that it denies American citizens who are not yet proficient in English the right to access Government information in their native language, unnecessary in that 95 percent of U.S. residents already speak English.

The bill's premise is also flawed. The common thread binding Americans is not only a common language but the quest for democracy, freedom, and justice for all.

This bill breaks all strands of that common thread by dividing American citizens and unraveling civil rights in the name of national unity.

Let us uphold the tradition of respect for the fabric of diversity that makes this country great. Let us defeat the rule and this bill.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I rise in strong support of H.R. 123, the English Language Empowerment Act of 1996.

This bill declares English to be the official language of the Government of the United States. It will require the Federal Government to conduct its official business in English including all citizenship naturalization ceremonies. The American people, including new citizens, have long championed the notion of making English our official language. To date, 22 States—including my home State of Louisiana—have already declared English their official language. It is time to make English the Nation's official language.

The bill also amends the Voting Rights Act to end Federal mandates for bilingual ballots. This will put an end to the unfunded mandate of requiring States to print ballots in different languages. Since 1975, States with certain populations of language minorities are required to print ballots in the native language of the minority. Currently, 375 voting districts in 21 States are now required by Federal law to provide voting ballots and election material in foreign languages—6 languages alone were on the ballot in the last mayoral election in Los Angeles. While there are some who believe this is worthy and necessary, the measure is dividing our Nation along ethnic lines. In addition, it is also unduly burdening the States and opening the system to potential fraud.

The issue of voter fraud disturbs me greatly. I fear bilingual ballots only help those who resolve to steal elections. According to the 1990 Census, California has 4.4 million non-citizens, Florida has 949 thousand non-citizens. Texas has over a million non-citizens, and New York has 1.5 million non-citizens. In 1982, a Chicago grand jury reported that "* * * many aliens register to vote so they can obtain documents identifying them as U.S. citizens * * * These aliens used their voter's card to obtain myriad benefits, from Social Security to jobs with the Defense Department." Unfortunately, many of these same individuals also vote. With the ballots printed in their native languages, its easy for crooks to convince these individuals—many of whom are unaccustomed to U.S. election laws—that it is okay for them to vote.

We are an English speaking Nation. Most citizens understand this and, in fact, support this reality. Since 1906, all U.S. citizens are required by law to be able to comprehend English. And, since 1950, all U.S. citizens must demonstrate an understanding of English, including an ability to read, write and speak words in ordinary English usage. However, there are currently 323 languages spoken in the United States—115 languages alone spoken in the New York City Schools. Forty million Americans will be nonEnglish language proficient by the year 2000. To keep America one Nation, one people we must have one common language.

Opponents of making English our official language claim that certain ethnic groups do not understand English and therefore must be accommodated. Well, since the 1960's, the Federal Government has been spending millions of taxpayer dollars on programs that teach English to nonEnglish speaking individuals. In addition, the Federal Government mandates that States and local governments also spend taxpayer money to teach English to nonEnglish speaking individuals. In 1995 alone, the Federal Government spent over $200 million on such programs. And, when you include State and local mandated spending for such programs, the amount skyrockets to $8 billion.

Well, Mr. Speaker, something is obviously not working. It is becoming more and more evident that teaching children in their native, foreign language hinders their ability to learn English. Printing ballots in foreign languages does the same. Let's not perpetuate an already bad problem by officially recognizing languages other than English.

Mr. LIVINGSTON. Mr. Speaker, I rise in favor of the rule and in support of the bill and would point to some of the change in my pockets, which the saying is on some of our currency, e pluribus unum, out of many comes one.

The fact of the matter is that America is built on many cultural societies who have come together in unity and in an attempt to build one great Nation. Whether it ultimately ended up as English speaking or Spanish speaking is a matter of history. We are an English speaking Nation. It does not mean that people of Spanish heritage cannot treasure their heritage or speak Spanish at home. Likewise, Haitians or Iranians or Iraqis or people of any culture in this great country of ours can respect their cultures at home and in their communities and can speak in bilingual fashion. But to say that we will become a Nation of many official languages is to run a risk that no longer will we be unified as a Nation.

In fact, Canada in recent years has experienced exactly that problem. they started recognizing French as an official language, as part of one major segment of the country. Now we see that Canada is on the verge of breakup, of disruption, within a matter of 5 to 10 years may not be a single nation, may be a segment of several different nations.

I would not want to see that happen to the United States. We went through one great Civil War. We do not need to go through any more. This country has fought, has spilled blood to provide for a single Nation. We will remain that way if we speak one official language. I urge adoption of the rule and passage of the bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewomen from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong opposition to the rule and to the bill. There is pending before the U.S. Supreme Court a contest on a constitutional provision added by referendum to the State of Arizona Constitution which falls along similar lines. The lower Federal court in the State of Arizona, as well as the U.S. Ninth Circuit Court of Appeals in looking at the provision that had been put into the Constitution, both unanimously held that the provision which called for English only, requiring all public employees to communicate with constituents only in English constituted a violation of the first amendment and that it was a denial of free speech.

It is on this basis that I rise in opposition to the rule and to the bill. This legislation, though it is called an enhancement policy, in essence translates a feeling in this country about the importance of English, into a prohibition against the Government and

its employees in the exercise of their duties to communicate in other than in English.

When we took office we took an oath to uphold the Constitution.

This, I believe, Mr. Speaker, to be the fundamental obligation of this body. Through the Committee on Rules and through our deliberations in our committees, the Constitution should be our guide and we should not enact, support, legislate in any way that deprives fundamental liberties in this country. Sure, every parent wants their child to succeed, to be prosperous. And the only proven way in this country to do that is to be proficient in English. So, the obligation of this Congress and of this Nation is to encourage it.

Yes, I think we all believe that English is the common language of this country and in order to succeed here in trade and commerce, in all of our professions, we ought to be proficient in English. But this bill goes for beyond that. It does not enhance our democracy. It restricts it. It confines the duties of this Government to only those people who speak English.

In fact, there is a section in this bill that says every other law that has been passed by the Congress from the beginning of this Nation to the present time which may require communication in languages other than in English only is hereby repealed.

This Nation has been for open Government, for equal access, to take everybody who is here legally in this country and to accord them equal protection of the laws. This legislation does not do this. I hope that the Congress will not pass a law which is so divisive. The goal of this country is to unite behind the principles of democracy and not to go contrary to the Constitution.

MODIFICATION OF AMENDMENT NO. 1 IN HOUSE REPORT 104–734 TO H.R. 123, ENGLISH LANGUAGE EMPOWERMENT ACT OF 1996

Mr. LINDER. Mr. Speaker, I ask unanimous consent that amendment No. 1 printed in the report on the rule may be offered in the following modified form:

At the beginning of the amendment, insert:

Page 1, line 4, insert before "English" the words "Bill Emerson".

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

There was no objection.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I rise in support of H.R. 123. Our country has a historic tradition of receiving immigrants from all around the world. H.R. 123 builds on that tradition and binds us together through the use of English as a common language.

Over the past 20 years the Federal Government has increased the number of languages in which it publishes documents and conducts official duties.

This has led to a de facto multilanguage policy which is very expensive for the taxpayer.

H.R. 123 declares English to be the official language of the United States Government and serves to unit us even more as a Nation.

All of us would agree that knowing English is a key to success in the United States.

A 1994 study of Southeast Asian refugees in Texas showed that those who knew English earned more than 20 times the annual income of those who did not speak English.

Knowing English will open a broad range of opportunities that would otherwise be unattainable.

This bill fosters and encourages everyone to learn English.

Encouraging immigrants to learn English is the compassionate thing to do and this bill does that.

Mr. Speaker, one of the biggest reasons why I am rising in support of this bill is because it is what my mother would want me to do. She passed away in 1991, but she was born to Italian American immigrants and spoke Italian as her first language.

She always taught me that this move towards multilingualism in the United States was bad and divisive. On my way over here I was speaking to another Member who told me his high school now conducts official proceedings in two different languages. I think that is wrong. I think the language that binds us together is English, and my mother was right. I encourage everyone to support the rule and to support the bill.

Mr. Speaker. As a cosponsor of H.R. 123, The English Language Empowerment Act, I rise in strong support of this bill. We are proud of our Nation's ability to assimilate people from around the world into one cohesive society. The purpose of H.R. 123 is to build upon our Nation's historic tradition as a melting pot of diverse cultures from around the world, and to bind us together through the use of English as a common language. This bill establishes a much needed uniform Government language policy, promotes assimilation, saves taxpayers money, and empowers immigrants to realize the American Dream for themselves.

This bill is needed because currently the Federal Government does not have a uniform national language policy on publishing documents or conducting its business. Whether documents are published in a foreign language depends in large part upon which particular Federal statute is involved. In addition, over the past 20 years the Federal Government has increased the official duties it performs in other languages resulting in a very costly de facto multi-language policy. This bill corrects this piecemeal approach by establishing English as the official language of the United States Government and requires the Government to conduct all its official business in English.

H.R. 123 will not only establish a uniform national language policy for the Government, but it will promote assimilation of immigrants, rather than isolation and separation. The current policy fails to encourage recent immigrants to learn English. The failure to encourage immigrants to earn English may be the easy thing to do, but it is not the compassionate thing to do. The compassionate thing to do is to encourage immigrants to learn English. A firm grasp of the English language is a key to succeeding in America.

Learning English not only helps immigrants assimilate, it is the key to having the opportunity to realize the American Dream. Studies show that people who learn English earn more for their families, and confirm that the ability to speak English can make the difference between a low-wage job and a high-wage managerial, professional, or technical job. In 1994, the Texas Office of Immigration and Refugee Affairs publicized a study of Southeast Asian refugees in Texas. The study showed that individuals proficient in English earned more than 20 times the annual income of those who did not speak English. H.R. 123 empowers each new generation of immigrants the opportunity to realize the American dream.

Nothing in this bill would in any way limit the ability to individuals to speak their native tongue. This bill simply limits official Government business to the English language.

Not only does this bill benefit the immigrant, it also benefits the taxpayer. There are hundreds of languages spoken in the United States. According to the GAO, The Federal Government already prints many documents in foreign languages including Spanish, Portuguese, French, Chinese, German, Italian, Russian, and others. For American taxpayers the question is where does the printing of these documents in foreign languages stop? This bill ensures that all Americans can count on one language for Government action, polices, documents and proceedings.

In conclusion, I support H.R. 123 because it helps recent immigrants by opening up to them a land of opportunity. It will stop the trend towards the separation and isolation. It will encourage assimilation. In supporting this bill I stand with 86 percent of Americans and 81 percent of immigrants who want to make English the official language of the United States.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I rise in opposition to the rule and to the legislation for a multiplicity of reasons.

One is that I saw a friend of mine recently, and this bill is making us the laughing stock of the world. He said, you Americans are going to speak English? I said, We do. But you are going to make it the official language? It is. This just puts it a line on a piece of paper.

My district begins with Hispanics, what we call Anglos, Czech, Slovak, German, Polish, little Hungarian. That is the makeup of my district in south Texas.

All of them speak English. All of us speak English in one form or another. But this is mean spirited, I do not care

how we camouflage it. It is aiming at someone. It is aiming at a group in California or some other place. We do not want this. We do not want any more immigrants. We are going to shut it out.

What are we going to do to the Statue of Liberty? I guess erase what it says on there.

This is a problem that we have. This is mean spirited. It is camouflage. It is trying to stop people from doing something.

English is the language of this country. That is what we speak. That is what we do. Everyone does that. My congressional district, we are teaching the kids. But do you want to stop something? Why do the big companies spend millions of dollars in Spanish on the billboards? To sell their product, to sell their product.

□ 1215

Mr. Speaker, saying that the Government of the United States has to function solely in English is ridiculous, it is absurd.

Now let me tell my colleagues something. President Reagan stood in front of the wall in Berlin and says, "Mr. Gorbachev, tear down this wall." Had bailing wire and bricks and mortar; it was torn down.

We are going to rebuild the Berlin Wall around the United States of America. Not going to be bricks and mortar; it is going to be something called "English only." We are going to build a wall around us, and my colleagues will live to regret the day.

Mr. LINDER. Mr. Speaker, I yield 1½ minutes to our colleague, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, America is a nation of immigrants. Some came with knapsacks on their shoulders, some came in chains and leg irons.

But one thing America is not. America is not a nation of separation. All our citizens are Americans. The common denominator is our language. Our language is English. The glue that binds generation after generation is both our Constitution and our English language.

Supporting programs that teach English, in my opinion, is not enough. Congress must insure that America does not become a nation of separate communities, separate tongues.

So, Mr. Speaker, I say it is time to stop the politics of fear, politics of hate, politics of division. It is one America, one people, one community, one Nation under God I might add, and to best achieve those goals, ideals, and rights I believe is one official language.

If someone else can make a better case for another language, I will listen.

Mr. Speaker, I support this rule, and I support this bill and urge the Congress to do so as well for the sake of unity.

Mr. LINDER. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I rise in strong support of H.R. 123, the English Language Empowerment Act. H.R. 123 provides encouragement for immigrants to learn English.

Today, when many immigrants reach our shores, they settle in neighborhoods largely inhabited by people who speak their native language. This is understandable, as it is much easier and more comfortable to associate with people of the same culture speaking a familiar language. However, to gain the full benefits of coming to this great land, it is imperative to learn the English language. Learning English is necessary in order for immigrants to build a better future for themselves and their families.

Many of the bill's opponents claim that H.R. 123 will isolate our recent immigrants from the rest of society. When in fact, it accomplishes the exact opposite—it brings us together as a nation united under one common language.

Again, I urge my colleagues to support H.R. 123.

Mr. LINDER. Mr. Speaker, I yield 1 minute to our colleague, the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I rise in very strong support of this legislation.

Few Members here today on both sides of this debate would argue the fact that the United States is a country of immigrants, each of whom, through both their differences and similarities, have contributed a great deal to the fabric of our society. As the granddaughter of Polish immigrants, I can attest to this fact.

But the debate we are having today is not about our differences, it is about our similarities. I am proud of my heritage—as are the many ethnic groups that make up the enormous cultural diversity of this Nation. My grandparents and parents spoke Polish at home when I was growing up and I do not believe anyone here today will argue against the practice of communicating in a language other than English. But they understood that mastering the English language was the key to opportunity, success, and prosperity in the United States.

It simply makes sense to make English the official language of the United States, and vast amounts of Americans agree. In 1986, 73 percent of California voters overwhelmingly supported an amendment to the Constitution to establish English as the official language of California. So because of that, I would ask that we strongly support this legislation.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, all morning we have been told that the reason we are having this bill is because people are divided and English being official would bring us together.

But this bill only does one thing. It prohibits a Federal public official from corresponding in a written form to his or her constituents. That is all it does.

And, Mr. Speaker, the basic problem with this bill is that it is unconstitutional. The Ninth Circuit of the United States has found that such a bill is unconstitutional for two reasons: In many cases sometimes a public official has to correspond in a language other than English because it is essential for communication; and to have an effective government, Mr. Speaker, sometimes we have to communicate in a language other than English.

This is all that the bill does. It is unconstitutional and I would ask Members to vote "no."

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

Mr. CUNNINGHAM. Mr. Speaker, that is not all this bill does. Only one-tenth of 1 percent of all Federal documents go out under current law. But law is more than just law, it is symbology.

How many of my colleagues watched Kerri Strug in the Olympics win a gold medal? When seeing that American flag come down, I bet many of my colleagues had tears in their eyes. That was powerful. That was power. That empowered not only Kerri Strug and the gold winners, but the American people.

How many of my colleagues have ever witnessed or participated in a swearing-in ceremony? I have, many of them; and I want to tell my colleagues when they stand up and they hold up their hand, that is powerful and it is strong and it empowers those immigrants and the rest of the American citizens. That is important. It is not just law, it is empowerment of our children.

Mr. Speaker, I look at over and over, there are 320 languages, over a thousand dialects, and the reason for the bill, this is the Bill Emerson bill, that there is an increasing number of American citizens that do not understand, write, or communicate orally with the English language, and we are saying that in the thirties and the forties and the fifties there was a different attitude, that when one came they learned English, and over a period of time that number is reduced, and we want to empower our children.

We are not building a wall, we are tearing down a wall, because if I was mean-spirited, I would say: Stay where you are. Don't learn the English language. Stay wherever you want in your little communities and not have a portion of the American dream.

But no, Mr. Speaker, we are not doing that.

Governor Clinton in Arkansas signed a bill just like this one. Eighty nations in the world have signed their own language is a common language.

Mr. LINDER. Mr. Speaker, I yield 1½ minutes to my colleague, the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, can my colleagues see the absurdity of this Congress and this Nation having a debate such as this:

(Here, Member spoke in French.)

That is French in my own attempt. In Italian we could say:

(Here, Member spoke in Italian.)

And I will try it in Japanese, Mr. Speaker:

(Here, Member spoke in Japanese.)

The interpretation is one language is important for our country.

Now we can sit here and say and tell our children that it is not important to have one, but it is absolutely absurd. Nations need a common language.

My uncle was a Hungarian immigrant. He spoke eight different languages. He was run out of Hungary by Nazi Germany. But he did not come to America to say, "You need to start speaking Hungarian." He said, "I'm going to start speaking English." He kept his Hungarian. And my cousin Clare, who was born in Spain, knew some Hungarian, today she knows Spanish. My sister Jean knows Italian. I minored in French. My colleagues would not believe it by the way my pronunciation was just then.

But the point is we have to have a common language in our country. This is not mean-spirited, this is not malicious. It is absurd for people who cannot come up with an intellectual argument to come back to that same old line: mean-spiritedness. This is common sense. So, Mr. Speaker, as we would say in Japan:

(Here, Member spoke in Japanese.)

In French:

(Here, Member spoke in French.)

In Italian:

(Here, Member spoke in Italian.)

Down home we say, "We'll see you all later."

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I oppose the rule because it makes Americans not Americans. It is a bad rule and a bad bill.

Mr. BEILENSON. Mr. Speaker, I yield the balance of our time to the gentleman from Texas, Mr. GENE GREEN.

The SPEAKER pro tempore (Mr. NETHERCUTT). The gentleman from Texas is recognized for 2¾ minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in opposition to the bill and the rule. I consider the bill a dangerous bill, and unlike my colleague from Georgia, English is our common language. I admit, in Texas we speak a little different English from maybe in Georgia and New England, but we still speak English, and some Members in the House on both sides say that we do not.

The reason for the opposition to this bill is that my colleagues talk about the bill, saying it is a common language. That is not what the bill says. If my colleagues brought a bill to the floor today that said English is a common language, they would not have any opposition to it because we would all agree with that.

What this bill does, though, is separate it, prohibit the use of other languages, and even this rule that we have today is limiting our freedom to debate on this bill. A lot of amendments Members submitted to try and make this bill better and not so onerous were not allowed in the Committee on Rules because of the modified closed rules we are having, and once again we have a rule that we do not get to debate the full bill itself.

English is our official language. My opposition said 99 percent of the documents that are printed are printed in English. This is a solution in search of a problem, Mr. Speaker. Our language classes for English in my district and everywhere in the country are overflowing. There is a waiting list now. They cannot advertise English language classes in Houston because they cannot fill them, and yet these are the same folks that cut education funding for adult education. So do not come up and shed crocodile tears about how people ought to learn English when they cut adult education to people who want to learn English.

This bill should be amended to recognize that English is our common language because that is what their debate is about, but it is not. This rule divides us and this bill divides us as Americans, because we share more than our language. We share our love of freedom and our willingness to fight for that freedom, no matter what our language is. And I thought that was aptly mentioned earlier by my colleague from Puerto Rico.

□ 1230

This bill divides our country, because we are united in more ways than language. Again, I will share with my colleague from California, he says "Nothing typifies this more than the Olympic spirit," the unity we see, not just from around the world, but from the United States team in Georgia.

We are going into the 20th century, and here this is a bill that I can imagine would have been debated last century. We are going into the 20th century, to try to make sure we can compete in the world and compete everywhere, and yet we are going to punish someone in my office who writes a letter back to someone in German?

I know there is an amendment to correct the bill, but it came out of committee, to punish Members of Congress for contacting, in response to people who write our office, whether it be in Spanish, Czech, German, or Vietnamese. They are going to clean it up, but this bill should have been worked on even more, because it is a bad bill and it is a bad rule.

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

Mr. Speaker, in closing let me just say this is a modest attempt to do what the people of this country have wanted for some time in overwhelming numbers, to establish English as the first and official language of this country.

For over 200 years, the glue that held the fabric of this society together was a common language. Thirty years ago, we began to change that. We began to deal with people in different languages. That isolated them. This bill is going to bring them back together. The isolation that was created by putting people in pockets of communities that spoke a different language kept them apart and out of the American dream. This is a modest effort to change that. I urge support for the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

Mr. CUNNINGHAM. Mr. Speaker, I ask unanimous consent to proceed in order under the rule to accommodate the gentleman.

The SPEAKER pro tempore (Mr. NETHERCUTT). Could the gentleman clarify his request?

Mr. CUNNINGHAM. Mr. Speaker, this is for the purpose of unanimous consent, to change the language on one of the amendments, like we did with Mr. Emerson.

Mr. BECERRA. Reserving the right to object, Mr. Speaker, I am not sure which amendment the gentleman is talking about.

Mr. CUNNINGHAM. Mr. Speaker, it is their side's amendment. I am trying to accommodate the gentleman, not us.

Mr. BECERRA. Again, Mr. Speaker, if we could find out what the change would be before we decide.

Mr. CUNNINGHAM. It is right there before the gentleman.

Mr. BECERRA. Mr. Speaker, under my reservation of objection, if I may ask the gentleman a question, if the gentleman is just providing some definition to "Native American," is that the purpose of the gentleman's amendment?

Mr. LINDER. Reserving the right to object, Mr. Speaker, I think it is appropriate that we see what is precisely being tried before we decide whether or not to object.

Mr. CUNNINGHAM. Mr. Speaker, I withdraw my unanimous-consent request.

The SPEAKER pro tempore. The gentleman from California [Mr. CUNNINGHAM] withdraws his unanimous-consent request.

Without objection, the previous question is ordered on the resolution.

There was no objection.

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

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

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 178, not voting 19, as follows:

[Roll No. 388]

YEAS—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NAYS—178

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cummings
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Scott
Serrano
Skaggs
Skeen
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Brownback
Chapman
Conyers
Cox
Ford
Goss
Hayes
Hoke
Kasich
McCollum
McDade
Oberstar
Peterson (FL)
Rogers
Schumer
Skelton
Stark
Towns
Young (FL)

□ 1252

Ms. JACKSON-LEE of Texas changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, on rollcall No. 388, I was detained by other official business elsewhere in the Capitol. Had I been present, I would have voted "yes."

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3103, HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–738) on the resolution (H. Res. 502) waiving points of order against the conference report to accompany the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3448, SMALL BUSINESS JOB PROTECTION ACT OF 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–739) on the resolution (H. Res. 503) waiving points of order against the conference report to accompany the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers complying with minimum wage and overtime requirements under that act, which was referred to the House Calendar and ordered to be printed.

ENGLISH LANGUAGE EMPOWERMENT ACT OF 1996

The SPEAKER pro tempore (Mr. NETHERCUTT). Pursuant to House Resolution 499 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 123.

□ 1257

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House

on the State of the Union for the consideration of the bill (H.R. 123) to amend title 4, United States Code, to declare English as the official language of the Government of the United States, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. CUNNINGHAM] and the gentleman from Missouri [Mr. CLAY] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I yield 15 minutes to the gentleman from Florida [Mr. CANADY], and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Chairman, during the discussion on the rule, I am afraid the American people may have gotten confused as to what legislation is before us, because much of what was said has nothing to do with the bill that came from our committee. Today we are voting on H.R. 123, which is a bill introduced by the late Bill Emerson, former distinguished Member of the body and a friend of many.

Mr. Chairman, there are many things in the bill that some people think went too far. There are others that people think did not go far enough. I think it is probably striking about the right balance. I say that because this bill declares English the official language of the Government, not of the private businesses, not of churches, not of homes, not of neighborhoods; just the Government. Furthermore, it then makes exceptions to the English requirement for the protection of public health and safety, national security, international relations, the teaching of language, the rights of victims of crime, certain instances of civil litigation and others.

We have also included rules of construction to help clarify the intent of the bill. So we have made a number of changes to the original version of H.R. 123 which addresses the concerns for many Members. After all, it is the English language that unites us, a Nation of many different immigrants as one Nation.

Over and over again we see that it is the English language which empowers each new generation of immigrants to access the American dream. Declaring English the official language of Government is the commonsense thing to do. We now have according to the Census Bureau, over 320 different languages. The Federal Government already prints materials in Spanish, Portuguese, French, Chinese, German, Italian, Russian, Korean, Ukrainian, Cambodian, and others; and the taxpayers says, where does it stop?

President Clinton himself, as Governor of Arkansas, signed legislation making English the official language of the State of Arkansas, and about half of the States have enacted the same kind of legislation. Again I remind all, this legislation is English as the official language of Government, not homes, not churches, not neighborhoods, not the private sector.

Mr. Chairman, I include for the RECORD the following letter from the gentleman from Ohio [Mr. SAWYER] concerning his not appearing at the committee markup on the final vote:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 25, 1996.

Chairman WILLIAM GOODLING,
Committee on Economic and Educational Opportunities, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GOODLING: Due to a speaking engagement with constituents, I was unable to be present for the final vote on reporting the Cunningham Substitute to H.R. 123 out of the Committee on Economic and Educational Opportunities.

I would like to note for the record that if I had been present, I would have voted, "nay."

Sincerely,

THOMAS C. SAWYER,
Member of Congress.

□ 1300

Mr. CLAY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I agree that learning English should be a priority goal for all persons residing in the United States. In fact, there is extremely high demand for English language classes. Immigrants themselves recognize that in order to better their own lot, and that of their families, learning English is imperative. New arrivals to our shores flood English as a second language classes. In Washington, DC, 5,000 immigrants were turned away from English classes in the 1994 school year. In New York City, schools have had to resort to a lottery to determine enrollment. In Los Angeles, more than 40,000 applicants remain on waiting lists for English classes. In my view, we should expand Federal support for English as the second language and for bilingual education programs.

My Republican colleagues characterize this bill as commonsense legislation. But it is neither common sense nor common decency to mandate exclusive use of English while utterly failing to address the practical need for adequate English-language preparation.

This bill is not a mere declaration of English as the official language of the United States. It is hopelessly vague, ambiguous, unnecessary, unconstitutional legislation, searching for a solution to a nonproblem.

With so little time remaining on the legislative calendar, the Republican majority has chosen to engage in an issue so potentially divisive. Instead of empowering people in the use of English by ensuring adequate funds for English as a second language classes, this bill attempts to protect the English language as though it were under some bizarre attack by other languages.

This bill will obstruct such basic Government functions as tax collection, disaster preparation, water and resource conservation, and execution of civil and criminal laws and regulations. What logical public policy could this bill possibly support?

This fall, the United States Supreme Court will hear oral argument regarding the constitutionality of an article in the Arizona Constitution which declares English the official language of the State and which mandates that all government business, with few exceptions, be conducted only in English. In light of that, consideration of this legislation is premature.

As a matter of national policy, we should support both expanded opportunity to learn English and multilingualism. For that reason, I wholeheartedly embrace the Serrano substitute which views the diversity of our Nation, its people, its languages, and its cultures, as something to celebrate, not something to fear and resist. The Serrano substitute recognizes the benefits of multilingualism in protecting us in war, furthering our ability to communicate with the nations of the world, and enhancing our competitiveness in the global marketplace.

I urge my colleagues to reject H.R. 3898 and to support the Serrano English-Plus substitute.

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

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, quite frankly, this debate is totally perplexing to me. It makes me wonder, are we speaking here in English to each other or are we talking in foreign tongues? I do not understand it.

We are a nation of immigrants. As I look around this Chamber, I see the great melting pot personified by many of the Members in this House, and I am no exception.

Of course my married name is ROUKEMA, and my husband, in fact, is the only member of his family who was not born in Holland. They came here and were assimilated. My family name is Scafati. We were Italian-American immigrants, my grandparents on both sides, and their decision was to come to America and be integrated into society as soon as possible. As a result, my grandparents and my parents learned

English ASAP. It was important for them.

The example of my parents and grandparents was clear, clear to me then and clear to me now. They knew instinctively that English proficiency was absolutely essential to their success, not because they were not proud of their heritage but because they knew mastering the language was important to them and that they should do it as quickly as possible.

They knew that proficiency would help their family, their neighborhood, and their whole community. Yes, they knew that English proficiency was good for the overall well-being of society and for the tradition, the more than 100 years tradition of the melting pot that united all of us in our hopes and ideals as a nation. I must stress this.

Now we must take this definitive step today to avoid that our Nation should be so divided into many ethnic enclaves. I see that as a great threat to our national unity.

This legislation is not meant to penalize or to hold segments of our population back. Mr. Chairman, we are here to encourage people arriving on our shores to be upwardly mobile and achieve economically and socially in this new society.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in 1965, Congress enacted the Voting Rights Act to combat discrimination against African-Americans who were being unconstitutionally denied the right to vote. It was not until 1975 that Congress added a requirement mandating that certain jurisdictions provide voting materials in languages other than English. The underlying premise for this expansion of the law was that it was somehow discriminatory to conduct an election in the English language.

Bilingual ballots were a means to remedy this alleged discrimination. However, when the use of bilingual ballots was last mandated in 1992, after 17 years of use, no statistical evidence was produced to show that bilingual ballots had increased vote participation by language minorities in any covered jurisdiction.

On April 18, 1996, the Subcommittee on the Constitution held a hearing on what is now title II of the bill before the House. A number of distinguished witnesses testified that our society is becoming fragmented into linguistic ghettos, and federally mandated bilingual ballots only encourage such fragmentation. These witnesses testified that through the use of bilingual ballots, American citizens can exercise the most public of rights while remaining apart from public life.

Moreover, because of the arbitrary and mechanical formula of the bilingual ballots mandate, there are many covered jurisdictions who are required to print foreign language ballots which are never requested or used. These election materials are simply thrown in the trash after each election, but they must be printed due to the Federal mandate. In certain jurisdictions the requirements of the law are extremely burdensome. Los Angeles County is required under this Federal mandate to conduct elections in six languages—in Chinese, Japanese, Vietnamese, Tagalog, Spanish, and English. In the November 1994 general election, Los Angeles County spent over $21 for each requested foreign language ballot.

The Congressional Budget Office estimates that repealing the Federal bilingual ballot mandate will result in savings of $5 to $10 million annually for covered State and local governments. The mandate is expensive, ineffective, and wasteful.

Mr. Chairman, rather than enhancing participation in our political system, the bilingual ballots requirement denies the essential connection between meaningful participation in our national political discourse and knowledge of the English language. Title II of H.R. 123 removes from the Voting Rights Act the practice of providing federally mandated bilingual ballots, a practice which denies the common bond of language that unites us as a people.

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

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I rise in opposition to H.R. 3898.

Mr. Chairman, I have always worked, both as a teacher and as a legislator, to promote the use of English in this country. The law of necessity, of survival, the law of economic success are enough to motivate people to learn English. We must provide the opportunity to achieve proficiency in English.

We need but look at the bill to see that its provisions do not even come close to its intentions: that English is the official language of this country and that its citizens should speak English. It does nothing to reverse the results of 2 years of frontal attacks on the bilingual education program which helps children learn English, and does nothing to strengthen the adult education program which helps adults learn English.

In the States and cities which are most heavily impacted by immigrants, new entrants can languish for years on waiting lists to enter English language programs. In Los Angeles there are 40,000 applicants for English language classes. In Washington, DC, the Nation's Capital and the place in which this debate is taking place, 5,000 immigrants were turned away from English classes in 1 year alone.

Do my colleagues think these new Americans have in any way demonstrated an unwillingness to learn the language of their new country? No, of course not, but they will be punished anyway.

Mr. Chairman, I am pleased that the bill before us today does correct a problem which the gentleman from California [Mr. CUNNINGHAM] said he would correct with respect to the Americans With Disabilities Act. This bill before us today provides an exemption for children served under this program. There are, in fact, 10 exemptions to this bill. To me, the fact that we have this many exemptions in the bill reveals that there is a problem with the bill.

Mr. Chairman, I urge my colleagues to reject this unnecessary legislation. It will not wear well. It does not serve our country well. Let us provide the means for people to learn English in this country.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. GRAHAM].

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

Mr. Chairman, let us try to answer the why question. Why are we doing this? We are asking that English be the official language of government. I think it is important for the folks listening to understand what we are trying to do and what we are not doing.

We are trying to make sure that this Government conducts the language of its business in English, because that is the one unifying thing about America, is that that is the formula for success in America, a good work ethic and a command and knowledge of the language.

We are not asking people to give up their culture, we are not asking people to stop teaching languages, we are not asking people to interact only in English. We are asking the Federal Government to do its business in English. And one of the reasons we are asking for that to be done is there is a growing trend in this country to accommodate 320 different languages in terms of the Federal Government conducting its business.

In one case, the IRS produced 500,000 10W40 forms in Spanish and got 700 replies back at $157 per form, and this program is growing. I think it is time to stop that.

We are trying to set policy that is good for the Nation, and the policy we are trying to set is simply this: That the Federal Government is going to conduct its business in the unifying language of America because that is good policy.

The formula for success has been and always will be a command and knowledge of the language and a good work ethic, and the policies we should be setting in this country should bring out the best in Americans.

Where do we stop with 320 languages to accommodate? I think it is not unreasonable to ask the Federal Government to conduct its business in the unifying language of this Nation, and to do otherwise is impractical.

There are many exceptions in the bill that are commonsense based. Some people ask about phrases on money. We have an exception for art and phrases that are commonly used in other languages. We have a health and safety exception for the EPA to notify a community about a dangerous situation with drinking water.

The exceptions are sound, this is a good bill, and there is a good reason we are doing this. I ask for Members' support.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of H.R. 123, which declares English to be the official language of the Government of the United States.

□ 1315

The Government of the United States. And simply stated, that means when one does business with the Government of the United States, one does it in the English language.

We have heard a lot about the fact that English is a unifying force which has brought millions of immigrants over the years together in this country, and I think that is a true statement, but I also think it is important for us to look to the north and to Belgium to see how bilingualism and multilingualism has been a dividing force in those countries. And it has. Neither in Canada nor in Belgium over literally centuries has there been a formula devised to bring unity to those countries that have been divided, not along religious or ethnic lines but along language lines.

But irrespective of whether this bill is adopted, English is the language of commerce. If someone comes from a non-English speaking country to the United States, in order for them to achieve the American dream they have to be functional in English, and there is no better way to help them become functional in English than to say that when doing business with the Government of the United States, it be done in the English language.

So what we are doing here I think is helping people who come from other countries where English is not the language to become part of America. To achieve the American dream. To achieve their own individual human potential. And this is one small step in allowing them to do so.

Mr. Chairman, I submit the following for the RECORD.

I rise in strong of H.R. 123, the English Language Empowerment Act of 1996. I believe it is essential to have English as the official language of our National Government, for the English language is the tie that binds the millions of immigrants who come to America from divergent backgrounds. We should, and do, encourage immigrants to maintain and share their traditions, customs, and religions, but the use of English is essential for immigrants and their children to participate fully in American society and achieve the American dream.

Importantly, title II of this bill repeals the Federal mandate requiring certain communities to provide bilingual ballots. This directive of the Voting Rights Act is unnecessary and costly. The Voting Rights Act of 1965 was originally intended to put a stop to racial barriers to voting in the South, such as literacy tests. English-only ballots are simply not the equivalent, or even comparable, to the racially abused literacy tests of the South.

Applicants for American citizenship, with some limited exceptions, have been required to demonstrate proficiency in English since 1906. Since only citizens may vote, the rationale for mandatory multilingual voting services is perplexing. One of the reasons we require immigrants to learn English before they naturalize is that a person who cannot understand English will not be able to participate in the political community in any but the most limited capacity. Bilingual ballots are not an effective means of increasing full political participation, for they are used by citizens who are obviously not proficient in English, and those who are not proficient in English, in most cases, cannot follow a political campaign, talk with candidates, or petition their representatives.

I believe it is necessary to clarify what repealing the bilingual ballot requirement does not do. This bill does not affect laws outlawing voter discrimination. It does not propose a literacy test. It does not preclude anyone from voting, even if they do not know English.

There are effective alternatives to federally mandated bilingual ballots, especially where complicated ballot initiatives are involved. Foreign language newspapers have the free speech right to publish sample ballots translated from English, and voters can take these sample ballots into the voting booth. Under this bill, a political party or interest group is perfectly free to issue multilingual voting materials. States can choose to allow voters to bring a friend or relative in the booth with them, absentee ballots can be filled out at home with assistance, and ethnic organizations can provide bilingual sample ballots and voter information pamphlets. Furthermore, although this bill eliminates the unfunded mandate on the States, States are still free to supply ballots in foreign languages, if that is what the voters demand.

According to a recent survey, more than 80 percent of Americans, including immigrants, support making English the official language of the United States. I urge my colleagues to heed the call of the American people and vote in favor of this bill.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in opposition to this legislation. For over a decade I have chaired the Helsinki Commission. That commission is dedicated to the principles set forth in the Helsinki Final Act that we will treat diversity in all our nations with respect and integrity.

The fact of the matter is we passed a resolution on this floor unanimously regarding Kosova in which we urged and asked the Serbians to make sure that in Kosova they would be taught in the language that they knew, not Serbian, that they knew. So that on the one hand we urge nations of the world to be respecters of differences while in our own Nation we retreat from that principle. We ought not to do that.

The language of America is English. Indeed, my friends, the language of the world is fast becoming English. The tide is not against English or America; the tide is for us. We do not need to act in fear or in chauvinism or in jingoism. Reject this legislation.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON], who drafted this same bill in Arkansas, which Governor Clinton then signed.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding, and I rise in strong support of this bill which makes English the official language of the U.S. Government.

Mr. Chairman, I believe it is our values and our ideals that ultimately bind us together as a nation. But it is the English language which serves as the means by which we can communicate these values to those around us. Our common language, English, is that which unites us.

Eight-six percent of all Americans support establishing English as the official language of the U.S. Government. In fact, in a recent survey, telephone survey, taken in a section of my district in northwest Arkansas, it was found that 97 percent of those polled approved of declaring English as the official language of our Government.

I think the numbers speak for themselves, Mr. Chairman. Nearly half the States in our country have established official English laws, including my home State of Arkansas.

In 1987, as a second term legislator in the Arkansas General Assembly, I cosponsored this legislation which we have before us, signed by then-Governor Bill Clinton, now President Clinton, making English the official language of the State of Arkansas. Governor Clinton signed that law. I hope he will sign this bill as well.

My legislative director's grandparents were immigrants from Norway. They came over on a boat. They learned English. They taught their children English. They assimilated in our culture and they lived the American dream. They still revere their Norwegian heritage. They still cherish that tradition, but they knew that English was part of becoming Americans.

Mr. Chairman, I think this bill is very reasonable. It takes a reasonable

approach; it makes good sense. We can honor the diverse backgrounds that are present in our society while at the same time emphasize the common bond that we have in the English language. I urge an aye vote on this bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise is strong support of H.R. 123, and I commend my colleagues for bringing this legislation forward. This was pushed for many years by our recently departed colleague, Bill Emerson. Bill would be exceedingly proud today to see us moving forward on this legislation.

Today, 79 nations have an official language. Government documents in France, Germany, Japan, and Austria are printed only in one language. So what happens in those countries that have gone the opposite direction promoting multilingualism? We do not have to look very far to find that.

The comment of the chairman of the Royal Commission on Canada's Future about the multilingual policy of Canada stated that it was an anthology of terrors causing Balkanization. Very appropriate, considering the gentleman's comments about what is going on in the former Yugoslavia; ghetto mentalities; the destabilization of Quebec; reverse intolerance by immigrants for Canadian institutions; and the devaluation of the very idea of a common nationality.

Are we heading in that direction in the United States? Consider this: 40 million Americans will be non-English language proficient by the year 2000; 375 voting districts in 21 States are now required by the Federal Government to provide voting ballots and election materials in foreign languages; 115 languages are spoken in the New York City schools; driver's license exams are offered in 31 languages in California.

Six languages were on the ballot in the last mayoral election in Los Angeles. Opponents have accused this bill of being mean-spirited. Nothing could be further from the truth. We want to raise immigrants up and help them get ahead. This is the way to help.

Mr. CLAY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding, and I rise in strong opposition to this cynical attempt to drive a wedge into our society.

Mr. Chairman, I rise in strong opposition to the legislation before us today.

This bill is another battle in the war against children in this Congress. Eliminating bilingual education could increase dropout rates and hurt the ability of immigrant children to adapt successfully in this country. A quality education is the key to a better way of life. People come to this country in search of that better way of life.

We can only benefit by providing opportunities for all people to become productive members of our society, especially young children with bright futures ahead of them. Everyone in this Nation wants the same things—security and opportunities for themselves and their children. This legislation is unnecessary, discriminatory, and would deny opportunities to everyone who is perceived to be different.

This is an appropriate time to remember that our Nation was settled by those who spoke languages other than English. Their proud heritages are reflected in those who inhabit this beautiful and diverse country.

The majority feels that a national language policy will fix what they deem to be a problem with our common language. Yet, according to the 1990 Census, English is spoken by 97 percent of the U.S. population. English as a second language classes are so popular that in Los Angeles instruction is available 24 hours a day. Waiting lists for ESL classes are overflowing with thousands of people. Language minorities fully understand and appreciate that it is imperative to learn English to succeed in this country and make determined efforts to do so.

Yesterday this House voted to deny benefits and opportunities to legal immigrants. Today we are voting on this legislation to deny access to Government to language minorities. If this legislation passes, we make a mockery of our proud designation as a nation of immigrants.

If this legislation passes, the message will ring loud and clear that this House does not value the richness or diversity of life experiences that are woven into the colorful fabric of our Nation. We cannot mandate narrowmindedness and discrimination. That is already in evidence in this country. So is the desire for language minorities to speak English. We don't need to mandate that either.

If, as its proponents maintain, the purpose of this legislation is to give more language minorities a better chance to learn the English language, let's do something about it by increasing funding for bilingual education and ESL classes. This is nothing but xenophobic political posturing and I urge my colleagues to vote against this distinctly un-American legislation.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding.

If my colleagues are somewhat confused in this debate, I can understand why. Everyone both for and against this bill is saying English is the language of this country, and it is. And it always will be. And as the gentleman from Maryland [Mr. HOYER] said, it probably soon will become the language of the world.

So why are we here debating a bill and why are there people opposed to it? Because what we want and what we wish and what we intend must be very clear in what we write. And unfortunately, what is written, it is not what people are saying.

Mr. Chairman, what is written is completely opposite of what people are saying. There is nothing in this bill that will help teach those who wish to learn English the language. There is nothing in this bill that will promote those who are wishing to learn English the language. What this bill will do is strangle those who are taking classes trying to learn, and that is why those of us who are standing here saying English is the language of America will be strangled, those people will be strangled from ever having the chance to truly learn the language well.

This is not a bill to send a message. This is a bill that will strangle those trying to learn English.

Mr. CUNNINGHAM. Mr. Chairman, I yield 1½ minutes to the great gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Chairman, the gentleman from California [Mr. BECERRA] is in error. We are trying to get language as the official language of our Government. This English Empowerment Act states English is the official language of the U.S. Government and requires English be used in Government actions, documents, and policies.

Despite some of the rhetoric we are hearing today, it is not a radical idea. In fact, more than 80 percent of all Americans support English as the official language. It is about time we acknowledged that one of the most important things we can do to help individuals succeed in America is to encourage them to learn our common language.

A recent study of Asian refugees by the State of Texas shows that those individuals who attained proficiency in English earn over 20 times the annual income of those who do not speak English. Learning English will enable immigrants to do what they came here to do: achieve the American dream.

We must reverse the failed policies of the 1960's and 1970's. America is a diverse Nation; however, we must bind the strength that comes from America's diversity with our common language. Let us stop dividing Americans and do something to bring them together.

Vote for the English Empowerment Act to do this now.

Mr. CANADY of Florida. Mr. Chairman I yield 1½ minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Chairman, in reviewing my file on the English language bill, I came across a letter dated November 10, 1994, 2 days after the elections of 1994 in which I was elected to represent the people of the seventh district to the United States, and this letter, a "Dear Colleague," is written by Bill Emerson from the great State of Missouri.

He wrote me even long before I had been sworn into the Congress about a dream of his, a dream that 1 day he would witness, with the support of people he hoped like myself as a new Member of Congress and so many other of

his colleagues, that our country, our Congress would take a step forward of unity, brotherhood, and common goodwill, and that is to enact his language of government act.

Mr. Chairman, there was not a divisive or mean-spirited bone in Bill Emerson's body. And he believed so strongly in this dream that the very first letter that I, and probably every other newly elected Member received within 2 days after we were elected to the Congress, was a very positive, warm letter from him asking us to sign on to this legislation.

I immediately called his office. Signed on, and became the first original cosponsor of this legislation. And I am honored today here, Mr. Chairman, to stand up and say, let us make Bill Emerson's dream a reality, and pass this important legislation.

Mr. CLAY. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, a U.S. Government English-only policy would, at best, be counterproductive, isolationist, and simpleminded; at worse an English-only policy is an elitist, bigoted, and racist policy. English plus, the amendment to be offered later by the gentleman from New York [Mr. SERRANO], is the way we should go.

Yes, English is the official language of the country. We do not have to proclaim that. But English plus is the way we should go if we want to go into the 21st century with the advantage that we need for international trade purposes. This bill originates from the people who brought us GATT and who brought us NAFTA, who emphasized international trade. Why would these same people want to go backward and deemphasize bilingualism? Why not salute the people who speak additional languages? Why not have every American try to become bilingual?

Let us go in the opposite direction for purposes of trade, for purposes of commerce, for purposes of international tourism.

□ 1330

There are a billion Chinese in the world. We certainly should appreciate every Chinese-American; we should see them as an asset to help teach us Chinese. There are Slavic people who are now in the middle class traveling to this country as tourists. We should be learning the Slavic languages and any Slavic-speaking Americans, Russian, Yugoslavian, Hungarian; all of those people should be seen as assets in the country, assets. Let them teach us the language so that we are better able to be able to deal with those people who come over here as tourists to spend their money and to make our economy go. For the sake of the prosperity of the country, for the national security of the country we need bilingual citizens.

We need English plus, not English only.

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

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

Mr. CLAY. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, why, why, why? I listen to my good friend, the gentleman from California [Mr. CUNNINGHAM]. I agree with him. I listen to the gentleman from Pennsylvania [Mr. GOODLING]. I agree with him. Mr. GOODLING said this does not mean anything, only the Government, the Government, the Government. We have to teach, we have to educate people. If this does not do anything, what it will do is you can pound your chest and say, we put one line in the law that says that English is the language of our Government. Fine. Go pound your chest, but the world will laugh at us. Why? Why? Why?

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, this bill that we are considering is entitled, "This act may be cited as the English Language Empowerment Act." I see nothing in this bill that empowers anybody in terms of becoming better acquainted with English or more proficient. There is not a penny being spent for education to promote English. We look at the education budget and it is being cut. What this bill really is doing is to confine, to restrict the programs and opportunities for people who are not proficient in English from participating in all of the fullness and richness of this society. It really degrades the whole notion of our open society, accessible to everybody legally within its borders.

The moment we say something cannot be printed in anything else other than English, we are punishing that small sector of our society who are not a threat to our democracy. Less than 5 percent of our people in the census said they were not proficient in English. They are not a threat at all. Yet we are seeking to deny access to the Government by refusing to allow Government agencies from printing documents explaining how to get into programs, how to apply for business loans, how to really make themselves much more a part, an integral part, of this society.

If we want to empower all these individuals in our community, regardless of what their ethnic origin is or where they came from, it seems to me that we have to find ways in which to embrace them, not to leave them out. This bill excludes opportunity contained in all the bills that we have passed; it says they are repealed. If we said anything previously about opening up government and creating access for people who are not proficient in English, those are repealed. There is a repealer paragraph in this bill.

Mr. Chairman, this is not an empowerment. It is denial.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Puerto Rico [Mr. ROMERO-BARCELÓ].

Mr. ROMERO-BARCELÓ. Mr. Chairman, I rise against the bill.

English is universally acknowledged as the common language of the United States. It is the language of opportunity. It is the language of banking and business, the language of the courts and the primary language of instruction in the schools throughout the Nation.

Now, what is the purpose of this bill? We hear the proponents say that there is not any prejudice involved in this proposal, that this is not a mean-spirited bill, that it is going to open opportunities and empower those that cannot speak English.

I would like to ask, how do we empower someone by requiring that he speak in English when he cannot, by requiring that the documents that are sent by the Federal Government to him must be printed in English even though he cannot understand them? Why can the Government not open doors, as they have been opened until now, to service its citizens as best it can and not be raising barriers of misunderstanding and creating difficulties in the service to the citizens?

Language is supposed to be used for communication, not to be raised as a barrier, to prejudice, as a barrier to impede other people from achieving their rights and fulfilling their obligations. If one cannot receive proper information about what their obligations are and because they do not understand the language, how can they then be required to fulfill the obligations?

This is empowering? It would be like saying that people who cannot read and write, let us then pass a law that in order to vote they have to be able to read and write and that way we are empowering the illiterates in America. Is that a sound argument? Is that sound reasoning? How do we empower anyone by requiring?

By stimulating, we empower people; by fostering, we empower people, by giving them the means by which to achieve what we want to empower them with, not by raising barriers of misunderstanding. How do we think that the people who speak a different language feel about it?

I oppose this bill, Mr. Chairman. I think this is a bill that would raise difficulties where there are none existing at this moment.

Mr. CANADY of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, I rise today in support of H.R. 123, the English as the Common Language of Government Act. This bill declares English to be the official language of the U.S. Government, and requires the Federal Government to conduct its official business in English. The measure also requires that all naturalization ceremonies be conducted entirely in English.

There is nothing radical or racist about declaring English the official language of the United States. By providing a means to communicate across ethnic and racial lines, a common language unites people and eliminates misunderstanding, segregation, distrust, and discord. English is our single shared language. It is the one language that crosses all ethnic, racial, and religious backgrounds and allows diverse Americans to share their multicultural backgrounds.

Declaring English as the official language will provide an incentive for immigrants to learn English. Throughout our history, new Americans were proud to learn to speak, read and write English. They knew that English was the key to assimilating to their new country. English was necessary to take advantage of all the opportunities that America had to offer.

Yet, today there are more than 32 million Americans who are not proficient in English. In many cities, immigrants can live, work, and play without ever knowing a word of English. The Federal Government caters to these immigrants by providing programs and services in their native tongue, discouraging them from learning English. According to the General Accounting Office, the Federal Government, between 1990 and 1994, printed more than 250 official documents in other languages. Even swearing-in ceremonies for naturalized American citizens have taken place in other languages.

Making English official will let immigrants know that they have no right to receive public services in any other language. Most Federal Government business—documents, meetings, records, legislation, and ceremonies—will be in English. This is a tremendous incentive for new citizens to learn English so that they may participate fully in American society.

H.R. 123 does not prohibit languages other than English to be used in nongovernmental settings. It simply states that English is the language in which all official U.S. Government business will be conducted. Official English does not infringe on individual rights, nor does it prevent immigrants from preserving their cultures and languages in their personal lives. It does, however, encourage immigrants to learn English in order to fully participate in Government.

I encourage all my colleagues to support this nonpartisan, overwhelmingly popular piece of legislation. As Members of Congress, we have an obligation to ensure that non-English speaking citizens have an incentive to learn English so they can prosper and fully partake of all the economic, social, and political opportunities that exist in this great country.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, my maternal grandparents were Romanian immigrants. They came to this country at the turn of the century. My grandfather learned to speak English from his two daughters, my mother and my aunt, whom he sent to college in Cleveland, Florastone Mather College and Kent State University. My mother went on to the University of Pennsylvania Law School, and my aunt went on to Kent State and got a master's degree in education.

I am sorry that my grandfather could not live long enough to see his grandson, the grandson of a Romanian immigrant, become a Member of the U.S. Congress. But I do know that he believed very strongly, as did my grandmother, that English was a unifying force, as the language, as the expression of what brings us together as a people, that emphasizes our likeness, our commonality. It is, in fact, the essence of what makes us, allows us to become the melting pot, that while continuing to celebrate his ethnicity, his Romanian-ness, if you will, and always having great respect for that, there was another love that he had. That was a love for this Nation.

It was the kind of love and patriotic fervor that only I have seen in immigrants, that only seems to be a part of the heart of people who come here to give to this Nation and build it and be constructive and make it something great, because they want to be a part of what it means to be American without forgetting where they came from.

Part of what it means to be American is to speak a common language, the common language of English. That is what this bill is about in terms of making clear that our official language of government is English.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of some of the things that we have heard recently from the other side in this debate. It is true that no element of human experience defines our common humanity more deeply than language and no element in our culture more fully and deeply defines that culture than our language.

English is spoken more broadly throughout the world than any other language. It is composed of elements gathered from the languages of the globe and, for these reasons and others, it is arguably the richest spoken language anywhere on Earth. We should be proud of that richness and encourage it.

It appeals to our pride, to our simple patriotism. But in the end it also plays on some of our worst fears. There is, unfortunately, abroad in the world a drift toward insularity and, in some corners of North America and Asia and Europe, a rush to isolation, a xenophobia that is grounded in fear and hatred.

It harkens to a time some 60 years ago when one of the world's great orators played on simple patriotism among his countrymen to heighten the fears and hatred of a few with appeals that were couched in phrases like one land, one language, one leader. That is dangerous.

I do not impute that motive to anybody on this floor. But English is the official language of our Nation. Tens of thousands wait in line to elevate their mastery of English. We will be offering an amendment later today that will provide the tools to make language instruction available to all who hunger for it and thereby to take concrete, positive steps to bring about the unity that everyone on this floor argues for today.

I oppose the bill but hope that we can support English plus as a workable, practical alternative to the bill that is before us now.

Mr. Chairman, I rise today in strong opposition to H.R. 123 because I do not believe that we need to make English the official language of government. The simple fact is that English already is our unifying national language. And when we recognize that only 0.06 percent of government documents are printed in languages other than English, the lack of any need for this legislation seems clear.

I agree that learning English should be a priority for all persons residing in the United States. But in an increasingly global economy, literacy in a number of languages is a clear advantage—and, in some cases, a necessity. The more literate an individual is, the better equipped he or she is to adapt to the rapid pace of economic change.

Immigrants realize that learning English is essential to their own economic success. That is why English classes are running 24 hours a day in many parts of the country and thousands of people are currently on waiting lists. But that does not mean that real literacy in other languages is not also an important skill.

H.R. 123 purports to encourage the mastery of English. However, it does nothing to provide the necessary resources for adequate English language instruction. Without a strategy for increasing English literacy, the real impact of this bill may be only to discourage literacy in any language and to chill participation in civic life by those who are not proficient in English. That would be truly unfortunate.

In short, Mr. Chairman, I believe this English only legislation is unnecessary, counterproductive, and may serve to divide—not unite—the Nation. I urge my colleagues to vote "no."

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. BLUMENAUER].

Mr. BLUMENAUER. Mr. Chairman, I rise in opposition to House Resolution 123. This legislation is at best misguided; at worst, mean spirited, and does not reflect the America I know nor the community that I serve.

If we wanted to simply declare the obvious and designate English as the official language, it would not be difficult. We could do it without controversy. It would be easy to provide necessary guidelines, if we feel some of the current legislation dealing with bilingual requirements need tightening

up. But the trail of exceptions in this bill are an admission to the flaw that it is inappropriate to deny the tools to deal with citizens in the best way to help meet their needs.

Monday this House unanimously declared that it is the sense of Congress that the government of Serbia should ensure the rights of its Albanian minority to be educated in their native language rather than in Serbian. Far more native born Americans of Mexican ancestry live in the former Mexican provinces of Texas and California than the 2 million Albanians which this Congress expressed their concern that they would be able to be educated in their native language. With this bill, we are saying that what is fair and just for the minority people of Serbia is just too good for the non-Engish-speaking minorities of the United States.

The proponents of this English only legislation, Mr. Chairman, ought to acknowledge that we either believe that people have a right to be educated in their native language or we do not, either we provide English instruction to non-English speakers or we do not. Let us drop the hypocrisy, the doublespeak and acknowledge in plain English that at best this bill makes the business of government harder. At worst, it panders to prejudice.

Mr. CUNNINGHAM. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, one of my great frustrations is that over the years I have felt that those of us who live in southern California indeed should learn and read and write and speak Spanish. Unfortunately, we have not accomplished that.

Nonetheless, it was 40 years ago that I first got to know a gentleman who knows more about language than anybody I know in public affairs. A professor by the name of S.I. Hayakawa, an expert in general semantics talked of the importance of language as a unifier of people. Years later the then Senator 'Sam' Hayakawa sponsored legislation similar to that before us today.

The first Member of the House to bring this matter to my attention, our friend Bill Emerson, gave the highest priority to English serving to unify us by its designation as the country's official language. I urge you to support H.R. 123, and as you do so, keep in memory our colleague and friend, Bill Emerson.

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Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise in opposition to this bill, not that I am in opposition to English being the official language. I support English being the English language. If my colleagues did that poll and called my house and asked me or any of mine if they supported English as the official language, I would say yes, so I would be a part of that percentage that they include in being in support of English as the official language. But I do not support this bill. This bill to me is simply another way that we as leaders of the country are polarizing the people of this country.

Now I hear the other side saying that this is uniting the people. How can we arrive at the conclusion that this is uniting people; this is doing nothing more than dividing people. We as leaders have the responsibility to unite people.

I can remember great crises in the past where the people came together. World War II is the greatest example. People of different colors and different ethnic backgrounds, and different religions stood shoulder, to shoulder, to fight an enemy because we were attacked, and they were proud of it, and they were proud of their compatriots in war.

But today, this way we are going, we are dividing these very same people against each other, and this bill I would not call the promotion of English as the official language. I would call it the promotion of polarizing America. That is what I would call it.

Let me tell my colleagues something. I have been here probably more generations than anybody on that side, and I speak English. My children do not speak Spanish. I speak in Spanish very badly; I learned after I got to Congress. My ancestors, my parents, they spoke English, and they spoke English well; but they also spoke Spanish, and their parents before them.

What does it take to make those people understand that the people in the United States want to speak English? We do. Ninety-five percent of the people speak English, and of that 95, 25 percent speak in another language. Does that make them lesser Americans, that they do not believe that English is an official language?

Look, I get up and say I am an American, I love America, I promote English. I support English as an official language, but I do not need this bill. Let us stop this foolishness and get rid of this bill.

Mr. CANADY of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, as a cosponsor of H.R. 123, I strongly support the bill.

Mr. Chairman, I rise today in strong support of H.R. 123. As a cosponsor of this bill and a member of the Opportunities Committee, I believe establishing English as a common language of Government will not only strengthen our nationalism but will stave off the multilingual wedge being driven into the heart of our Nation.

Since 1920, Mr. Chairman, Nebraska's State constitution has held firm in maintaining English as the State's official language. And, just as saying the Pledge of Allegiance is largely symbolic, so is the sense of pride among us for having a national language.

Mr. Chairman, for 400 years immigrants from all across the globe have come to America. We come together as one Nation, with one language, for one people, under God. The English language has strengthened and sustained us in years past, as it will do so in the years to come. I urge adoption of H.R. 123.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

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

It is precisely because my parents, Greek immigrants, could not speak English when they first came to these shores that I support the legislation in front of us. They would leave no stone unturned to try to learn English on their own and could not wait for the day that they could become naturalized citizens and to be proficient in the English language sufficiently enough to merit the granting of the citizenship which they so prized for the remainder of their lives.

But that is not the main reason that I support the bill. Their pride in English and their pride in being American citizens was enhanced by the fact that they knew the English language and could help their children become educated, not only in the English language, which is their adopted language, but also never to forget the Greek language

I am enriched by what they did while they did everything in their hearts and minds they could to learn English.

I say to my friend from California, an old friend, Louis Vasquez, and his friend William Lopez and another friend of Spanish descent, and I formed the Spanish-American Society in my district, and they were happy to put together an organization whose sole function would be, not sole function, but one of the functions would be to teach their fellow Latinos the English language. When the charter came from the government of Pennsylvania granting them the official status of the Spanish-American Society which I provided for them as a new lawyer in town, they did not ask that that charter be in Spanish. They were proud that I read it in English. They displayed it and put it on the wall in the English form that it came because they wanted to be a part of the Government of the United States and Pennsylvania which printed its documents in English. They did not demand or require or even beg or request in any way that that charter also had with it a translation hanging next to it.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague for allowing me to speak.

I rise in opposition to the bill, but I support English as our common language. But our colleagues are trying to divide Americans on language basis, and I say to my colleague from Pennsylvania that no one asked to have that translation of that charter. In the State of Texas even with our Hispanic heritage our charters from our Secretary of State come only in English.

Some time ago, USA Today reported that the English-only effort is a phony solution in search of a problem. There is no more adequate statement that I have heard on any other thing in this issue. According to the findings in this bill, English is a common thread that binds individuals from different backgrounds.

In short, English is what makes us Americans. We have more in common than our language, and, Lord knows, we all speak English in a different way. Americans share a common set of values, those of democracy, freedom, and opportunity, and that can be said in English as well as lots of other languages.

Our fellow Americans who are not fluent in English are no less patriotic than my colleagues or me. In fact in some cases, particularly Hispanic heritage, we can go and talk about individuals who have literally laid down their lives for our country.

Contrary to what the sponsors of the bill claim, English is not being threatened. If one files a document in court, the public records are in English. If they get a charter from Pennsylvania, like my colleague said, it is in English. English is the language that is used today in Congress and all our official activities of our Government.

Then why are we debating this bill? Only to divide us as Americans. We are not divided because of our language, Mr. Chairman. We are divided today because of those of us who may not speak English as our first language. My ancestor did not speak English as a first language, they spoke German. But they also learned English, but we also lament that in our ancestry we lost the ability to speak German.

I hesitate to say anyone coming to America, they are going to learn English, but I do not want them to say, "Don't learn your heritage"; and that is what this bill is saying. This bill is trying to divide us, Mr. Chairman, based on language, and we do not need to be divided any more in this country.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in opposition to this misleading English-only bill. Everyone knows English is indeed our official language. According to the 1990 census, 97 percent of all people in this country speak English well.

Immigrants do not resist learning English. Most immigrants are proud to learn English and proud to speak English. This bill is but another divisive, mean-spirited initiative that does nothing to improve the ability of all of us in this diverse society to live and work together.

How dare any law deny an elected official the right to communicate with their constituents in any language other than English? How can a country that reaches out to cities in other countries all over the world in the great sister city movement of this country look its sister cities from countries like Mexico, Spain, France, Italy, Germany, Japan, Russia, and Africa, and many more, and say, "We love you like a sister, we respect your culture, we appreciate your diversity, and we invite you to come to the United States." And yet say to them, "But when you come to America, don't bring your language with you."

Forty-three percent of my constituents are Latino. We respond to all of our constituents. We respond to them however we need to respond to them, orally or in writing, and we do it in Spanish. We do that, and guess what? I do not intend to ever stop doing that. I do not care what law is passed.

The supporters of this bill claim to want everyone to learn to speak English. Yet they support the defunding of bilingual education while millions of immigrants are on waiting lists to learn Spanish.

This bill deserves to be defeated in every language. I ask my colleagues for a "no" vote.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER], the sponsor of H.R. 351.

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

Mr. Chairman, we are a diverse nation. We should celebrate and be proud of our diversity. But to be a nation we must have one common language with which we can communicate with one another. That common language is American English.

Immigrants have come to our shores for over 200 years, and each group has learned the central language, and has integrated themselves into our society. As our Nation has grown by their numbers, it has been enriched by each of them. In order to have economic and social mobility in this country, we know that we must speak and write the central language. To the extent that we encourage people who enter our society not to learn American English, we consign them basically to a life without that opportunity.

Mr. Chairman, in 1975 through misguided sensibilities, we mandated in certain circumstances ballots that would have to be printed in a language other than American English. A nation must conduct its public discourse in a central language, and through history our central language happens to be American English. It could have been American Spanish or American French.

The most basic public function that we have in this country is the conduct of our elections. To be eligible to vote in our elections, one must be a citizen. In order to be a citizen one must be able to speak and write American English, our central language. We can speak, read, or use any other language we wish; but when we conduct our official business, we ought to and must conduct it in that central language.

This bill repeals the Federal mandate for ballots in languages other than American English. This may not be good politics, but it is good policy. While we can encourage the diversity that makes us strong, we must come together under one language and speak that language so that we can communicate with one another. And that one language that each citizen is required to know in order to vote must be the only language of our public discourse and our most basic public act, voting.

I commend the gentleman from California and the gentleman from Florida for their leadership in bringing this legislation forward. I believe it addresses a serious problem where our society is dividing ourselves according to languages. We must bring ourselves together under one language, American English, and I would encourage all Members to support the legislation.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. JACKSON].

Mr. JACKSON of Illinois. Mr. Chairman, I rise in opposition to this unconstitutional bill being proposed by the previous speaker, the chairman of the Human Rights Caucus.

Mr. Chairman, please tell me what this bill is about? I believe that this bill is about denying and restricting freedom of speech as well as the right to vote. This bill violates the first amendment and the spirit of the Voting Rights Act which was written to overcome discrimination.

In this body, we vote to protect free speech for just about everyone and everything: It's OK to have pornography on the Internet; it's not OK for colleges to censor student newspapers; it's OK for newspapers to lie about us. We guarantee rappers the right to free speech, but we do not want to guarantee the right to free speech in another language.

Mr. Chairman, one-half of the world's population is Asian. One-fourth of the world is Chinese. One-fourth is African, and one-eighth is Nigerian. Americans make up only 4 percent to 6 percent of the world's population.

Until today, Congress has acted to expand trade with our neighbors to the south, east, north, and west. Now, we are turning our backs on 96 percent of the world; most of which is nonwhite, nonchristian, didn't have anything to do with the *Mayflower*, and has no paranoia about the English language losing its place in the world.

Mr. Chairman, segregationists have always fought against equal rights. Even the record of this Congress shows how difficult it has been

to expand basic rights: A member of the other body, who will be running for reelection at the age of one hundred, set a record for the longest filibuster in history when he opposed the Civil Rights Act of 1964—every Member of this body must recognize that the civil rights act outlawed poll taxes which prevented poor Americans from voting because they could not afford the tax needed to register.

So far this Congress is known for similar egregious actions, a senior Member of this body honored a former Member of the House who was a champion of segregation, the late Howard Smith of Virginia. today, unless this bill is defeated, we will be denying people the opportunity to understand the ballots before them. It causes me no little confusion, Mr. Chairman, that the sponsor of the bill repealing bilingual ballots is the chairman of the Congressional Human Rights Caucus. I ask this body that when we look at countries around the world which have persecuted their minorities, when we tell the Serbs to respect the rights of ethnic Albanians, how foolish is it that we are attempting to pass legislation such as this?

Mr. Chairman, every Member of this body should stand for liberty, equal protection, and free speech. I urge my colleagues to oppose this bill. This bill will represent the first time that Congress has narrowed the Voting Rights Act.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding this time to me.

This bill has an important, I think, both political and policy question. I do not want to diminish those importances, but I do think the bill is disingenuous despite its importance. I do not accuse any of my colleagues of that, but I think the bringing of the bill to the floor at this time is, as the American people understand it, motherhood, apple pie, the flag; those are great election year issues.

I have been here 18 years, and some Members of Congress bring those issues to the floor just before election. I think that is why this newest motherhood type issue, the traditional wonderful English language, is now being brought to the floor in this form.

Of course, a common language encourages unity. People on both sides of the aisle agree with that. There is no argument about that. Of course, a common language promotes efficiency in our vital system, private system and economy. There is no debate about that. Of course, immigrants should learn to speak the English language. That is why 97 percent of the people in this country can speak English or are on a waiting list learning to speak English.

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So what does this bill achieve? The listening public needs to understand that this bill does not affect spoken language whatsoever. If you do not speak English, that is fine. With English as the official language, we do not stop you from speaking any other language in this country, because even an arrogant Congressman would understand you cannot stop people on the street or in their homes from speaking the languages they will.

What does the bill do? It says the Federal Government may only print its official documents and information in English; that is, most of it in English. It even has some exceptions to that. Then what does it achieve? After all, only .06 percent of documents and information are now printed in other than English. So what does it achieve? Motherhood, apple pie, and English.

Mr. DIXON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise today in strong opposition to this legislation. The Republican leadership wants to use this offensive measure as its latest wedge issue to divide the American people. English is the official language of this Nation. Newcomers to our great country struggle day in and day out to learn our language and to become full members of our society.

I want to share with the Members something about the personal struggle of an immigrant, my father, who knew something about this issue. Ted DeLauro, an Italian immigrant, came to this great nation from Italy at the age of 13. He came eagerly, in pursuant of the American dream, a good education, and economic prosperity.

Tragically, my father had to give up part of that dream, an opportunity for an education. He left school in the 7th grade simply because he could not speak English. In class he confused the word "janitor" with the Italian word "genitori," which means family. He defined the word "janitor" as meaning parents. His teachers and his fellow students ridiculed him and made him feel alone. He was so humiliated that he never went back to school. That event touched him, it touched my family deeply, and it changed our lives.

English is the official language of the United States. New residents of our country want desperately to speak the language and to assimilate. If we are truly interested in codifying the importance of English, we should increase resources for bilingual education in our schools, reach out to residence who are struggling to learn the language, and ironically, this majority leadership, that claims to want to enshrine English as the language of all our residents, has cut bilingual education for thousands of students trying, like my father did, to fit in and to contribute to American life. It is shameful.

My father's story should never be repeated. Children should never have to quit school because they cannot understand the language. This people's House should reject this attempt to divide our country. Vote against this bill.

Mr. CUNNINGHAM. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH], chair of the Subcommittee on Military Construction of the Committee on Appropriations.

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of H.R. 123, the English Language Empowerment Act of 1996. The Federal Government has an obligation to ensure that non-English speaking citizens get a chance to learn English so they can prosper and fully partake of all the economic, social, and political opportunities that exist in this great country. The English language empowers each generation of immigrants to access the American dream. Studies have shown that people who learn English earn more for their families, are better able to move about and interact in society, and can more easily build a solid future for themselves and their children.

H.R. 123 is a good bill, it requires that all citizenship naturalization ceremonies be conducted entirely in English. This bill states that the enactment of this legislation shall not preempt any law of any State. It would not restrict the use of foreign languages in homes, neighborhoods, churches, or private businesses—only the Government sector. I urge my colleagues to vote "yes" on this legislation to designate English as our Nation's official language, and unite our Nation of many immigrants to be one.

Mr. DIXON. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. THORNTON]

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

Mr. Chairman, I rise in opposition to this legislation, which comes with a nice title, a ringing kind of phrase that our sentiments might want to endorse. But our discourse is not limited to "English". We use concepts expressed by words like "libèrté" French; "equality" from the French "egalité"; "justice," from the Latin. Our language is enriched by the addition of words and phrases from other languages.

We should be talking today about how to improve and accent American values. We should not be trying to make restrictions on how people talk. People in Arkansas may speak more clearly sometimes than people in other parts of our country, and we may use words that would not be in a lexicon. There should be no effort to limit our ability to express ourselves fully and completely.

I am pleased that the President of the United States has indicated that, if passed, he will veto this bill.

Mr. CUNNINGHAM. Mr. Chairman, I yield such time as she may consume to the gentleman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I rise in support of the bill, Mr. Chairman,

but will urge that its specific problems be addressed in conference.

Mr. Chairman, I rise today to acknowledge the difficult task faced by Chairman GOODLING and the members of the Economic and Educational Opportunities Committee in the drafting of this bill. Since 1981, Congress has attempted, with my support, to establish English as the official language of the Government of the United States. The United States is unique for many reasons, including its commendable cultural and ethnic diversity. But while we welcome all the diverse populations that decide to make America their home, we must also bring all Americans together by uniting under our most important common denominator—the English language.

For this reason, I support the provisions in this bill which would require the Federal Government to conduct its official business in English and produce most official documents in English. We must provide some relief from the burdens and costs associated with the additional printing now required of the Federal Government.

However, I am concerned that the committee has not made clear exactly which Federal documents would be affected by this bill. While only 265 of the approximately 400,000 Federal documents currently printed are printed in multiple languages, agencies must have clearer guidelines as to which documents would fall under this bill and which documents would be exempted. I am pleased that, under this bill, all documents dealing with public health and safety could still be printed in multiple languages. But where, for example, would documents issued by HUD fall? Would those not fluent in English still be able to receive information on housing discrimination? Or receive information on workplace discrimination from the EEOC? These are the issues I would like to see made clear in conference committee. We must take a careful look at which documents would be impacted by this bill.

In addition, I am troubled by the provisions which would repeal the Federal requirement for bilingual ballots. The Voting Rights Act was amended in 1975 to include these ballots and for good reason. Since the founding of our Nation, many Americans have been deprived of their inalienable right to participate in the democratic process by negating, either legally or illegally, their right to vote. We have seen States make voting difficult for certain populations by implementing poll taxes, literacy tests, and by designing complex balloting procedures. Bilingual ballots guarantee that no American citizen is denied the fundamental right to vote because of a lack of fluency in English.

It was only 4 years ago that Congress reauthorized bilingual ballots for the next 15 years. I supported that reauthorization back then and do not support any attempt to repeal that mandate prematurely.

However, I support the overall goals of this bill. We must be sure all of our citizens can understand our public discourse and enjoy the benefits of a common language. In order to meet this goal, though, we must strengthen our bilingual education programs and work to reduce the long English class waiting lists that our legal immigrants and newest citizens are faced with as they try to assimilate into this country. If we want well-informed citizens participating in the political process, we must make it easier for them to share our language. This is how we increase fluency—not by denying citizens their full political rights.

Mr. CUNNINGHAM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I stand in strong support of this legislation. I would just say to my colleagues, come to San Diego and see the stacks of bilingual ballots.

Mr. Chairman, last month there was a lady in my county named Mrs. Velazquez who was sworn in as a new citizen. I do not know what her position is on this, but I know what her position was on being sworn in as a citizen. She wanted to be sworn in as an American who speaks English. She did it as English, so that she could be mainstreamed. The fact is, the common language of English is the place where we can meet, the mainstream.

I know no reason morally that we can say we want to divide and make sure people do not meet in the mainstream. But, Mr. Chairman, we should remember the fact that when immigrants want to be mainstreamed, they choose the English, and we should do everything we can to encourage that. There are those that would want to encourage to divide.

In the past, the people of California have been brave enough to pass an initiative to say English should be our common language. Mr. Chairman, let us be brave enough to do the same, as California did a long time ago.

Mr. DIXON. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey [Mr. ANDREWS].

The CHAIRMAN. The gentleman from New Jersey [Mr. ANDREWS] is recognized for 2 minutes.

Mr. ANDREWS. Mr. Chairman, today there are 40 million Americans with no health insurance. There are millions of Americans who will go to bed tonight with a knot in their stomach about whether they get a layoff notice tomorrow at their jobs. There are rivers that need to be cleaned, highways that need to be built, seniors who need health care in their homes, and what are we doing this afternoon? We are passing a law that says it is illegal for the Federal Government to print a document in a language other than English. If I have ever seen a solution in search of a problem, this is it.

I know, Mr. Chairman, what this is really about. It is about millions of Americans who are sick to their stomach and worried to death that they are going to lose what they have worked for their whole life. What is the solution? It is to beat up on and demonize people who do not look like we do or talk like we do.

Mr. Chairman, if we want to do something to address the real problem of those very real people, then give paid leave to people so they can leave work and take care of their children, stop corporations from raiding the pension funds of their employees, provide health benefits for every working American in this country, fund bilingual education, so people can read and write the English language, and put our constituents back to work.

This is a shameless and shameful attempt to take the real anxieties of real people and direct them at people who are not like some of the rest of us. We are better than this bill. We should have aspirations better than this. Should, God forbid, it become law, I urge my colleagues from the Republican and Democratic party, from urban, rural, and suburban districts, be better than what is behind this bill. Vote no, and let us get to work on the real problems of the American people.

Mr. CUNNINGHAM. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. CUNNINGHAM] is recognized for 3 minutes.

Mr. CUNNINGHAM. Mr. Chairman, the last speaker said that we intend to beat up, demoralize. My colleagues on the other side, we have gone through this legislation, and I have sat down with them. They know there is no intent or nothing in this bill that would do that. This is an honest attempt to combine and empower the American people, and especially those that have limited English skills to help them.

Mr. Bill Emerson, the late Bill Emerson, has 200 cosponsors on this bill, 200 cosponsors. They are not mean. They are not after anybody's hide. But they believe that we can help the American people. Bill Emerson did not have a mean bone in his body. I would say that instead of divide, in one of the hearings a gentlelady from India said that when the British were there, that there were over 300 and some languages in India and more than that in the dialects, and they actually adopted a foreign language, English, as their common language when the British were there, and it tied that country together. When the British pulled out, and even today, those different groups are segregated and India is gridlocked because they do not have a common language.

My wife teaches Spanish. Both my daughters are fluent in Spanish. I want to send them, if I can afford it, to Spain or Mexico City. I want them to immerse, because I do believe that the future of this country involves trade, it involves that we learn a lot of different languages.

The gentleman said that we cut the program for education. No what we cut is the Federal Government. We send the block grants down to the States and allow actually more money, and take away the Federal rules and regulations from the education process.

Governors have told us they can do a better job.

I look across the Nation, and there are 320 languages in this country and a thousand dialects. We encourage those folks to learn, and I want Spanish-speaking or Chinese-speaking, I want them to speak those languages at home. This bill does not prohibit that. What the bill does, it says that the official language of the government, of the Federal Government, shall be in English. That empowers people, just like the example that I used that for our swearing-ins.

The bill says that when a person is sworn in as a citizen to this country, to the United States of America, that that be done in English. To me that is a powerful, that is a very powerful symbol. That is not mean-spirited. that means to empower those individuals.

In my own district, many people do not speak English. They are not empowered. I ask support for this bill.

Ms. VELAZQUEZ. Mr. Chairman, I rise today, amazed by how far some will go to unravel our country. H.R. 123 should be called the Linguistic and Voting Deprivation Act, not the English Language Empowerment Act. Instead of providing language minorities with the opportunities to learn English, this legislation will cost our Nation one of our most valuable resources—our diversity. I urge all of you to support English Plus.

Earlier in the year this House took opportunities away from our limited-English children by cutting funding for bilingual education. Today with the passage of this legislation, we are making the chance for a better life nearly impossible.

As a Representative with one of the highest immigrant and language minority populations in the country, I know the difficulties that language minorities face day in and day out. H.R. 123 will have the effect of further isolating my constituents who speak primarily Chinese or Spanish. To make matters worse, without bilingual ballots, these constituents will be completely unempowered.

As elected officials, our job is to make democracy work by reaching out and serving all our constituents—not just those who speak English only. Language minorities are some of our society's most vulnerable members. They are especially in need of assurance that their civil liberties will be protected.

My colleagues, H.R. 123 will not bring us together, it will only serve to divide this country. Vote "yes" for English Plus.

Mr. MARTINI. Mr. Chairman, I rise today to express my strong support for H.R. 123, legislation that would establish English as the official language of the United States. I believe that English should be the official language of the Federal Government with rules, decisions and laws for the record conveyed in English. As a cosponsor of several English First bills, I would like to commend Representative CUNNINGHAM and the leadership for bringing this important legislation to the floor.

The United States has long been a nation of immigrants. The fact that our country is a collection of different nationalities necessitates some sort of unifying factor in order to provide a national identify. A common language provides that unifying factor. By establishing English as the official language of the United States, it creates a bond that transcends ethnicity. It enables members of a multicultural society such as ours to more easily identify with each other.

It is important to note that this bill requires only the Federal Government to conduct its official business in English. The bill does not forbid the teaching of foreign languages in schools or every day citizens from speaking foreign languages in their homes, place of business or on a walk in a public park. In addition, the bill exempts public health, national security and civil rights actions. This legislation also repeals the Federal requirement mandating certain localities to provide bilingual ballots. However, if H.R. 123 becomes law State and local governments could still conduct bilingual or multilingual elections if they choose to do so. Furthermore, communities would also be permitted to utilize alternative more cost effective methods in an effort to ensure that no American citizen is denied his or her right to vote.

Unfortunately, in an era of political correctness, some people accuse this legislation of being inherently discriminatory. A deeper inspection of the issue reveals that there is no truth to this assertion.

Mr. Speaker, not long ago this body addressed the subject of immigration reform. The establishment of English as the official language of the United States would aid, not hinder, new immigrants in the assimilation process. Emphasizing the use of a common language will enable new immigrants to become more comfortable more quickly with the eclectic American culture. This simple observation denies the naive notion that an official language is based on discrimination.

Declaring English as the official language of the Government of the United States would be both economically and socially beneficially. I urge my colleagues to join me in declaring English as the official language of the United States.

Mr. TORKILDSEN. Mr. Chairman, I rise today in strong support of English as the Official Language of Government Act of 1996.

The English language is one of America's great equalizers. Studies show that immigrants who learn English are better able to build a life for themselves and their families. They typically enjoy greater successes in both their professional and personal lives. In fact, when my grandfather came to America from Norway at the age of 16, he learned English because it was the best way for him and his family to live the American dream.

Diversity is one of our Nation's greatest strengths. The unique cultures, customs, and beliefs that every immigrant brings to our country add to the richness of America. However, without a common thread to bind our society together, America risks losing its sense of unity.

Some will argue that this bill creates social divisions. This is simply not true. H.R. 123 does not prohibit anyone from speaking any language they choose. It simply says that the official language of the U.S. Government is English and that most official business will be conducted in English.

Opponents also argue that the bill infringes on the personal freedoms and rights of all Americans, and ties the hands of law enforcement and other Government agencies to ensure their protection. However, the bill provides specific exemptions for the protection of public safety and law enforcement.

We have seen in Canada what can happen when there is no common language. We cannot allow the United States to become balkanized with ethnic tensions that will only divide our country.

No matter what part of the world we or our ancestors come from, we all came to America for the same reason. We are here in search of the freedoms and opportunities that make our country great. We are here in search of a better life for themselves and their families. In short, we are here because we want to be Americans. The English language is part of the fabric that keeps us together.

Mr. Chairman, I urge my colleagues to join me in support of this common-sense legislation. I yield back the balance of my time.

Mr. BONILLA. Mr. Chairman, I rise in opposition to this bill. The fact is, English is America's language in fact, we don't need legislation to make a fact law.

No one understands the importance of mastering English more than I do. Growing up in a Spanish-speaking neighborhood in south San Antonio, I was lucky enough to have parents who stressed the importance of being fluent in English. My parents understood that English was essential to get work and succeed. My parents' example clearly demonstrated that learning English was essential to first succeed in school, and later in our jobs.

We don't need another Washington mandate, another law with bureaucrats to enforce it to tell us what we all know to be true fact. English is the common language of all Americans, passing or rejecting this legislation will not change this fact. I think it important to get beyond the impassioned rhetoric of this debate and address the facts of this bill, what this bill does and does not do.

This bill basically does two things. One, it restricts the use of other languages by the Federal Government with so many exceptions that it is unclear what in fact would change. At this time less than 1 percent of Federal documents are printed in other languages. Two, it ends the Federal requirement for bilingual ballots. This will have no impact on Texas as our State's electoral code provides for these ballots.

Now let's cover what this bill does not do. It does not promote usage of English. It will not affect commercial and personal communications. It will not increase English usage. It will not serve to bring us together. While I understand that many of my colleagues have good intentions in supporting this bill, millions of Americans do not see this as a well-meaning affirmation of national unity, but rather as a challenge to their Americanism. Until we eliminate this mistrust we should concentrate on promoting English usage rather than passing legislation.

English is America's common language. We do not need a law to prove this. Instead of making symbolic gestures to legislate language, we should take real concrete action to encourage every American to learn English.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to express my support for the Serrano English plus substitute, which expresses the sense of Congress that the U.S. Government should pursue policies that promote English as the common language of the United States while recognizing the importance of multilingualism and working to expand educational opportunities and information resources.

The Serrano substitute would encourage all residents of this country to become fully proficient in English while also encouraging the development of skills in languages other than English—recognizing that multilingualism is vital to American interests.

The Serrano substitute would ensure that the Government continues to provide services in languages other than English as needed to facilitate access to essential functions of Government, promote public health and safety, ensure due process, promote equal educational opportunity, and protect fundamental rights.

Mr. Speaker, this is an issue which impacts not only the men, women, and children affected by such legislation but our Nation as a whole. Our Nation has remained strong and united because, while we do not always agree, we share a common set of democratic ideals and values. Commitment to freedom, equality, tolerance and opportunity—not language—is what holds us together.

Legislation which would establish English as a national language runs counter to our Nation's history and would create a new and unprecedented role for the Federal Government. The Founders of this country recognized the danger of restricting its citizens' freedom of expression. Language, like religion, is an intensely personal form of self-expression which must not be subject to governmental regulation.

Language-minorities do not need to be coerced by the Federal Government to learn English: they already are. According to the Census, over 95 percent of Americans speak English. And current generations of language minorities are learning English faster then previous generations. In Los Angeles, demand for English classes is so great that some schools are open 24 hours a day, and thousands are placed on waiting lists. Also as we should not discriminate against those who speak a single language—English, we should not discriminate against our citizens who are trying to learn English.

Diversity in people and languages is not a national threat, but an advantage. In today's Information Age, we have the ability to connect with individuals across the globe. The movement of people across countries and continents has intensified. Our businesses, too, have increasingly moved into the broader world marketplace where the most influential language is that of the customer. Therefore, the 32 million Americans who speak languages in addition to English are at a competitive advantage.

I urge my colleagues to support the Serrano substitute and resist this attempt to divide our citizenry. Thank you.

Mr. RICHARDSON. Mr. Chairman, the English Language Empowerment Act of 1996, is a bill we do not need. Everybody in American realizes that English is the language of the land. At a time when we are trying to deregulate government, why are we adding more laws to our books?

This bill would not only prohibit the Federal Government from conducting its official business in a written language other than English, but it would repeal a Federal law requiring bilingual ballots for many non-English speaking voters. As a consequence, it will jeopardize the effectiveness of our government and deprive thousands of people of their right to participate in the political process.

In my district alone, one out of every five of my constituents is Native American, and they will be directly affected by this bill. This bill, as proposed, does nothing to protect the already endangered languages of Native Americans and Native Alaskans. Let's be clear, this is a bad bill—but if it has to be considered, I will support Congressman Cunningham's amendment which exempt native American languages. We cannot limit the ability of native Americans to actively participate in the political process.

We should not only allow but also encourage people to speak languages other than English. It is good for our economy and for the advancement of our people. Congressman Cunningham's amendment would improve this bill by protecting native American languages, and therefore, as bad as the overall bill is, we should vote for this amendment.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise in opposition to this bill H.R. 123, to express my concerns about what effect this legislation will have on America, today and in the future.

I am concerned that promoting English as the official Government language in this particular way will result in situations where Americans not yet completely proficient in English will be disadvantaged when it comes to seeking and receiving vital assistance from Government—be it exercising their right to vote, receiving the fullest education possible, health issues, particularly emergency situations—or any other social services.

My strong preference is to look at this issue from another angle. There is no question that English is a language of opportunity and that it is practical to carry out as much government business as possible in this language. In practice this is the case already—the GAO reported recently that between 1990–1994 Federal agencies, other than Defense and State, published 265 documents in languages other than English—less than 1 percent of all the government documents reviewed by the GAO. In reality, about 97 percent of U.S. residents above the age of 4 speak English well or very well. It is the 3 or 4 percent of our population that needs assistance when communicating in English that I am concerned about. Rather than passing legislation which promotes the use of English in a way that can be perceived as exclusive, culturally insensitive and which may result in further marginalization of minorities. I agree with others who have suggested we should instead focus on encouraging all Americans to become proficient in English—through making English language programmers fully accessible to all. It is not socially responsible to pass legislation such as H.R. 123 and expect those who cannot communicate in English—often not because they lack the will to try but because they are simply not enough programmes to go around—to cope without any means of communication with Government, which is after all there to serve the people. I strongly urge my colleagues to focus instead on strengthening our capacity to provide the means for new immigrants and those struggling to learn English to do so.

My second specific concern related to this legislation is an uneasy sensation I have that there are darker political undertones to the desire to promote the use of English only. The legislation is worded in such a way that it appears to be promoting English very much at the expense of other languages. The legislation does not recognize sufficiently the important of multiculturalism in the history of this country, and the strength multilingualism brings to our country today and its place in the emerging global marketplace.

I bring to this debate a unique perspective in that I represent a district where the languages of every day transaction are English and Samoan. Bilingualism is a strength in my constituency and I cannot support legislation that does not adequately recognize this.

Finally, I would like to note that moves afoot in this Congress to declare English as the official language of the United States have attracted the attention of the international community. I refer particularly to a resolution passed by the fourth Polynesian language forum, held in New Zealand in August last year which was supported by government representatives of 13 governments of Polynesia including New Zealand, Cook Islands, French Polynesia, Easter island, Western Samoa, Fiji, and Tonga. The resolution specifically stated its incredulity that the United States, otherwise a world leader in the field of human rights, should even consider legislation such as this. The resolution also reminds us that the international community recognizes the rights of indigenous people to have their languages used officially in government. In addition to the points I have made above in relation to the effect of this legislation on all minority groups in the U.S. this Congress would be wise to reflect upon its obligations to protect the languages and cultures of Native American peoples. We should not forget that the international community is watching, and judging us by our actions.

Mr. MILLER of California. Mr. Chairman, I would like to speak in favor of Mr. CUNNINGHAM's amendment to H.R. 123 that would exempt Native American languages from the provisions of this bill. The Native American exemption, which applies to languages spoken by the more than 557 American Indian and Alaska Native tribes in this Nation, is important for several reasons.

First, we have a fiduciary duty, a binding trust responsibility, to protect and preserve Indian cultures. An integral part of their culture is the ability to speak their own languages, many of which are disappearing or have even been lost. The tribes are making a concerted effort to revitalize their languages, and I believe that without this exemption, passage of this bill would frustrate those efforts.

Second, although the bill contains an exemption for teaching on languages, this does not cover cases where courses or classes other than language, such as history or math, are taught in Native American languages.

Third, the bill as presently drafted appears to leave out cases where elderly Indians, many of whom speak solely in their own tongue, need an interpreter or a Federal employee who speaks a native language in order to get medicine or health care from the reservation clinic, to get food stamp assistance, to get Medicare assistance, or help from the local BIA offices. These are important services and we need to be sure that they remain as readily available to the Indian elderly in the future as they are today.

Finally, we must take all reasonable steps to ensure that Indians are not denied or limited by this bill in their ability to exercise the right to vote. This amendment would ensure that ballots and voting instructions in Native languages and interpreters are available to assist Indians who do not speak English proficiently.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to express my opposition to H.R. 123, which would establish English as the official language of the Federal Government.

Legislation which would establish English as a national language runs counter to our Nation's history and would create a new and unprecedented role for the Federal Government. The Founders of this country recognized the danger of restricting its citizens' freedom of expression. Language, like religion, is an intensely personal form of self-expression which must not be subject to governmental regulation.

Language minorities do not need to be coerced by the Federal Government to learn English: they already are. According to the census, over 95 percent of Americans speak English. And current generations of language minorities are learning English faster than previous generations. In Los Angeles, demand for English classes is so great that some schools are open 24 hours a day, and thousands are placed on waiting lists.

What the sponsors of this and other English only legislation do not seem to understand is that diversity in people and languages is not a national threat, but an advantage. In today's information age, we have the ability to connect with individuals across the globe. The movement of people across countries and continents has intensified. Our businesses, too, have increasingly moved into the broader world marketplace where the most influential language is that of the customer. Therefore, the 32 million Americans who speak languages in addition to English are at a competitive advantage.

This legislation also repeals section 203 of the Voting Rights Act establishing bilingual ballots, which would have a devastating impact on the rights of language minorities to participate fully in the democratic process. The right to vote is one of our most cherished and fundamental rights. It is guaranteed to all U.S. citizens by the 15th amendment to the Constitution and the Supreme Court has long held that the right to vote implies the right to cast an informed and effective vote. To that end, the Court has articulated that constitutional protection extends to all, to those who speak other languages as well as those both with English on the tongue.

In 1975, Congress enacted language assistance provisions to the Voting Rights Act, recognizing that large numbers of U.S. citizens who primarily spoke languages other than English had been effectively excluded from participation in our electoral process. Congressional hearings brought forth evidence that these citizens were denied equal opportunities by State and local governments, resulting in disabilities and continuing illiteracy in the English language.

Repealing these provisions—as Title 2 of this legislation would do—and denying American citizens access to bilingual ballots for Federal elections would effectively disenfranchise a large population of U.S. citizens. In fact, as the number of bilingual U.S. citizens continues to grow the need for bilingual ballots is even greater. Many of these citizens have only recently had the opportunity to engage meaningfully in participatory democracy. Bilingual ballots not only increase the number of registered voters, but permit voters to participate on an informed basis. They not only allow voters who need language assistance to be able to read to know who is running for office, but also to understand more complex voting issues such as constitutional amendments.

Language assistance is not costly. In depth studies show that the cost was either nominal or caused no additional costs. A GAO report indicates that of the 295 responding jurisdictions, the average cost of providing written assistance was 7.6 percent of the total election expenditures, and an estimated 18 States incurred no additional costs in providing assistance. Oral language assistance is even less burdensome, with costs ranging from 2.9 percent to no additional cost.

Mr. Speaker, our Nation has remained strong and united because, while we do not always agree, we share a common set of democratic ideals and values. Commitment to freedom, equality, tolerance and opportunity—not language—is what holds us together. I hope that my colleagues will resist this attempt to divide our citizenry and oppose this bill, however I rise to support the Serrano amendment which affirms English as our common language.

Mrs. KENNELLY. Mr. Chairman, I rise in opposition to this legislation and in support of the Serrano amendment. I believe that English is part of our heritage and history, and that it should remain the common language of the United States. Today, 96 percent of Americans speak English, and I would like to see this grow. I support efforts to encourage and help new immigrants to learn our language.

But H.R. 123 proposes to shut non-English speakers out of so many aspects of life in our society. I am particularly disturbed by its attempt to repeal the multilingual ballot. Minority language assistance has opened up the democratic process to all citizens, and it has increased voter participation among immigrants. Repeal of this provision of the Voting Rights Act only serves to restrict the democratic process and turn this into a nation of exclusion rather than a nation of inclusion.

As has been said many times, America is a nation of immigrants. Diversity of heritage, culture, and language is a source of our strength. The Serrano amendment would permit us to build on this strength, and I urge my colleagues to support it and oppose H.R. 123.

Mr. COX of California. Mr. Chairman, the immigrant experience is central to our national character. It epitomizes the intergenerational improvement inherent in the American Dream. Americans by choice add to the cultural and ethnic diversity we have always celebrated. It is America's unique national trait that from such diversity springs unparalleled unity and strength of purpose.

For nearly four centuries, natives of other lands have come to America to build a better future. But unlike their predecessors, today's immigrants are met with Government policies allegedly concerned with the preservation of their ethnic separateness. Chief among these misguided policies is the mandate of a multilingual government. By discouraging immigrants and their children from using the English language, this policy has erected a linguistic barrier that keeps many immigrants from becoming full participants in the society they have chosen to join. Whatever its putative intentions, a policy of governmental insistence on a multitude of official languages works insidiously to harm the very people it was meant to help.

The use of English is indispensable to immigrants and their children who wish to participate fully in American society and realize the American Dream. As we seek to promote the rich and varied traditions new Americans bring, we must simultaneously work to ensure that all of us share some basis for common understanding. Securing both these important goals requires overcoming the divisive influence of linguistic separatism. English should be and remain the official language of our National Government.

English, our common language, provides a shared foundation which has allowed people from every corner of the world to come together to build the American Nation. Without it, we might never have achieved the cohesion that permits Irish-American and African-American, Asian-American and Hispanic-American, to live in peace and prosperity together as in no other nation on earth.

The experience of two other immigrant nations—Canada and Israel—offers us clear lessons on just how powerful a force language can be in either uniting or dividing a people. These are lessons we cannot fail to heed.

Canada, our neighbor to the north, bears much in common with the United States. Our settlement, founding, and national growth share the same time and place in world history. Our peoples emigrated from the same native lands. But unlike America, Canada has struggled with the divisive issue of language since its earliest days. Though the British won control over French Canada more than a decade before the American Declaration of Independence, they failed then to conquer the destructive force of linguistic separation. The French and English settled throughout North America, but the lesions of language that live on in Canada are healed in our country. Today, centuries after the French settlement of Quebec, the French language serves as a reason for the Québécois refusal to become integrated into a Canadian nation. The continued existence of Canada as we know it is very much in doubt.

Canada chose to make both English and French its official languages. It has striven for decades to foster unity through official multilingualism. The evidence is clear: that experiment is a horrid failure. Linguistic differences

have not promoted national harmony, but rather have dramatically increased Canada's cultural and communal divisions. Twice in recent years, Québécois have demanded and won the right to vote on whether they should separate from Canada. And when they did so most recently, in October 1995, only the barest majority—50.6 percent of Quebec voters—managed to save the country from the kind of disintegration that we ourselves avoided in the Civil War. A third vote could be held as soon as next year. Multilingualism has become a dagger pointed at the heart and soul of the Canadian nation.

The largest immigrant-absorbing nation on earth, in percentage terms, is Israel. Millions of emigres from around the world, speaking as many tongues as Babel, have been welcomed there. Israel's founding fathers, in contrast to Canada, have long recognized the centrality of language to their quest to reestablish a Jewish state in their historical homeland.

The Jews who have returned to the Holy Land shared a common history and religion, but they brought with them enough different native languages to threaten all hope of a cohesive nation. While Yiddish, the German-Jewish dialect spoken by East European Jews, at least overcame that group's experience with Russian, Polish, or Hungarian, Yiddish was as alien to the Arabic and French-speaking Jews of the Middle East as was Spanish. And Spanish was just one of the many other languages brought to Israel by immigrants from Spain and Latin America.

Israel has shown the world that the key to uniting a polyglot people is to establish a language of mutual understanding. Unlike America, where our British colonizers left us with an English language that is preponderant throughout the world, Israel had no obvious choice from among the languages of its varied citizenry. So its founders revived a tongue whose heritage they all shared, but which none of them spoke. Hebrew—the language of the Old Testament which had survived as the medium of prayer and religious study, but which had virtually disappeared from secular use—became once again the vernacular of Israel.

Israel did, and continues to do, much more than simply declare Hebrew to be the country's common language. The Israelis put in place an infrastructure to ensure that each and every immigrant will be able to speak this common tongue to his or her new countrymen, and thus become quickly integrated into Israeli society. New arrivals, whatever their age, are strongly encouraged to take an ulpan, the intensive Hebrew-language course typically taught by the immersion method. As soon as possible after their arrival, immigrant children are placed in regular Hebrew-speaking classrooms, and given extra Hebrew-language instruction to help them catch up with their classmates. Those arriving to take degrees at Israel's universities must prove their Hebrew proficiency before graduation, even if their degrees are in subjects—such as French, Russian, or English—that may be taught in their mother tongues.

Just as in America, those immigrants who arrive later in life inevitably remain more comfortable with their mother tongue. And just as in America, the culture and society of Israel is hospitable to such people: The Israeli press includes newspapers published in German, Russian, French, Yiddish, and many other foreign languages. Although none of these foreign languages is the official language of Israel, their use is welcomed in a free society. But Israel's insistence on Hebrew as the national language insures that the children of immigrants quickly become Hebrew speakers first, and speakers of their parents' language second. Although a parent might wish for her children to speak English as well as an American, this does not come at the expense of embracing Israel's language and customs. Immigrants need not abandon their ties to the country of their birth. But if they truly wish to become part of the country of their choice, the linguistic bonds to their new country soon strengthen.

Because Canadians have been unable to overcome the linguistic differences that separate them into distinct Anglophone and Francophone communities, they may not long remain as members of a single nation—despite the essential homogeneity of their population. By stressing a single, unifying language, Israel has built a strong, cohesive society—despite the amazingly diverse composition of its people.

The lesson for America should be clear. Fortunately, the United States already has a common language. We do not need to overcome centuries of linguistic separation, or to find a national tongue to bring our diverse population together. English is our common language, which has enabled us to become and remain the United States of America. We need only ensure that we do not lose it by neglect or inaction.

Many people do not realize that, while English is our common language, government at all levels is actively undermining its unifying function. All of the benefits our Nation reaps from our linguistic harmony will be lost if ill-advised government policies continue to forment linguistic separatism.

Today, American taxes are being spent so that people who cannot understand or communicate in English can nonetheless receive ballots to vote in Filipino, Vietnamese, or Chinese. Federal Government job announcements frequently invite applications from people with limited English skills. Immigrants have even been sworn in as new citizens at a U.S. Government ceremony conducted almost entirely in Spanish. And bilingual education, which purports to aim at bringing students into full participation in our society, has instead condemned them to what the New York Times calls a "bilingual prison."

Under these doctrinaire and disruptive bilingual policies, in too many U.S. schools children who wish to learn English are given only a few minutes of English instruction each day. Ignoring the time-tested wisdom that practice makes perfect, children are taught all day long in the foreign language they already speak, rather than in English. And children who should be moved quickly into mainstream classes are kept in language separation for 7 or more years.

Immigrant parents who have expressed serious concerns about this practice have no recourse. Despite parental fears that bilingual programs do not bring their children fully into the fold of American society, nothing is done to help their kids. That's why dozens of Latino parents at the Ninth Street School in Los Angeles recently pulled their children out of school to protest the education bureaucracy's refusal to teach their children in English.

Bilingual education programs often require teaching children in their native language and discourage the learning of English. These programs are a shameful example of the damage to our society caused by official multilingualism. They are wasteful, discriminatory, and too often produce children who are illiterate in any language. Yet they are perpetuated by a requirement that 75 percent of Federal bilingual education grant money be used for instruction in a child's native language rather than finding the most effective means to assist the transition to English. Instead of helping immigrants and their children achieve the American dream, these policies are condemning generations to isolation—cut off from the boundless opportunity our country offers to those who share the common bond of speaking and writing the same language, and being understood by their fellow citizens.

A 1995 study by Ohio University economists Richard Vedder and Lowell Galloway finds that a lack of English skills has trapped almost 1.5 million immigrants in poverty. And the Department of Labor has found that while 98 percent of Asian males who are fluent in English participate in the labor force, fully one-quarter of Asian males who lack English fluency are jobless. The simple truth is that those who cannot function in our country's predominant language are less able to find jobs. As a result, they are cheated of the opportunity for improvement and happiness that America promises to millions.

Even when non-English speakers are able to find jobs, they can expect to earn a fraction of what others earn. In 1989, immigrant men who lacked English skills earned $233 a week on average, according to the Bureau of Labor Statistics. Those who spoke other languages but were proficient in English earned $449, and those who spoke primarily English earned an average of $584 a week. A 1995 study by the Latino Institute has confirmed that the ability to speak English can make the difference between a low-wage job and a high-wage managerial, professional, or technical job.

These facts paint an unmistakable picture. Immigrant communities themselves recognize what must be done: According to the U.S. Department of Education, 42 percent of new enrollees in adult education are signed up for classes in English as a foreign language. Almost all of those enrollees—97 percent of them—were born outside the United States.

The drive for self-improvement these students demonstrate reflects an understanding of what America itself must not take for granted: that language is the foundation on which all human interaction rests. In America, where the principal language of interaction is English, its use and active promotion through Government policy can pave the way for unprecedented opportunity and national prosperity. But just as a common language opens the door to communication, so too the lack of it erects a barrier not easily overcome. If the common bond of a national language is neglected and denigrated long enough, experience teaches

that the Nation itself will ultimately suffer. Such an important key to realizing the American dream ought not be kept from those who come to the United States.

As we continue to welcome new Americans to our shores, we must ensure that misguided national policies do not undermine the important role of a common language of national understanding. English as the official language of our Government encourages its use by all Americans, so as to secure brighter opportunities and a better future for us all.

Mr. VENTO. Mr. Chairman, I rise today to oppose this legislation, H.R. 123. This measure would establish English as the official language of the United States, an unnecessary move that would only serve to polarize our communities and segregate those for whom English proficiency may not be so easily attained. This underlying measure is a solution in search of a problem, which is more likely to disrupt and deny the rights of U.S. citizens than to enhance the rights of Americans.

This measure is unnecessary. In America, English is already our common language, and making it official will do nothing to increase its use. Custom and practice of our language will not be enhanced by such cumbersome forced feeding. Even in Government, this holds true. For example, the General Accounting Office has reported that 99.94 percent of U.S. Government documents are printed in English only. While I communicate mostly in English to my constituents in the Fourth District of Minnesota, I do occasionally send correspondence in other languages. The original legislation would prevent my office, or any congressional office, from sending non-English correspondence to our constituents. These citizens deserve equal representation and access to their Federal Government, and denying Congress the ability to communicate with them limits their rights and privileges under the law. An amendment to be offered will address this problem, which this House will adopt, but what about the Department and Agencies employees who this measure ties into knots so people are denied help and service.

While restricting the ability of the U.S. Government to adequately communicate with certain Americans, this bill ironically does nothing to provide opportunities to those with limited English proficiency in order to help them learn our language. In fact, the fiscal year 1997 Labor, Health and Human Services, Education appropriations bill recently passed by the House cuts bilingual and immigrant education programs by 11 percent. This funding reduction, if taken together with this bill, would pull the rug out from under the majority of immigrants who are diligently attempting to learn English and further aggravate and polarize existing language barriers in this country.

The main public school system in my district, St. Paul Public Schools, is already struggling to provide this English language instruction to its limited English proficiency [LEP] students, the majority of who are Southeast Asian. The school district has over 6,500 LEP students and only 150 LEP teachers. This limits the number LEP instruction hours per student and increases student-teacher ratios to 60 to 1 in most classrooms. These budget strains will only become greater in the future as the student population with limited English proficiency grows, and it is, by any measure, the fastest growing population of students in the St. Paul Public School System. Clearly, more resources are needed in these areas and in educating adults who are new arrivals to the United States. This opportunity must be presented to these citizens, not the punitive denial of access to their Federal Government.

No one is suggesting that learning English is unimportant in the effort to live, work, learn, and earn in the United States. We must remember, however, that our Nation is comprised of people from many diverse cultural backgrounds. Legal mandates denying them access to some Government documents and other materials in their native language could prove to be detrimental to the rights of these citizens who are not fully proficient in English. The Federal Government should not be in the business of creating new barriers to integration within our society in this manner.

America's unity comes for hard work, dedication, and pride in our Nation and its citizens, not only from a common language. Historically, a high percentage of U.S. citizens once spoke poor or no English, but with patience and good will, these European immigrants were accommodated. How, this measure exacts a punitive action against those who today face English language barriers. What is this Congress afraid of? Have the people's representatives no confidence in our culture, institutions, or customs that we must set in law in essence a punishment for fellow citizens who need help in other languages such as Spanish or Hmong? This would simply alienate new citizens from their government, and segregation and isolation is surely not the goal we seek. Quite the contrary we seek tolerance and cooperation. Rather, we should integrate and honor our differences and recognize a person's need and right to be assured that their basic rights are protected. We will do more harm than good by imposing requirements that disenfranchise the rights of citizens under the banner of a common English language. If we are to continue to be a nation which accepts diversity and cultural difference, we must defeat this legislation which imposes great risk to the core American values and promise of our society and our great nation the United States of America.

Mr. POMEROY. Mr. Chairman, I rise in opposition to the English Language Empowerment Act.

I cosponsored this bill under the mistaken assumption it was for the purpose of designating English as the official language of this country.

I now understand the bill goes far beyond this purpose and would attempt to impose a clearly unconstitutional proscription on the ways in which the Federal Government communicates with its taxpayers. I further object to the provision which has been added to this bill to repeal the requirement of the Voting Rights Act for bilingual ballots in certain areas. As President Ronald Reagan said, the bilingual ballot requirement, "proves our unbending commitment to voting rights."

Since coming to Congress, I have consistently worked to include more Americans in the electoral process. This bill discourages participation for many Americans, and I find that unacceptable.

In summary, I believe this bill does not effectively promote English as the official language, but has an unacceptable punitive impact on those in the process of gaining proficiency in our common language.

Ms. MCKINNEY. Mr. Chairman, Este proyecto de ley es una desgracia y no es necesario. How rude can the Republican leadership be? At a time when America is hosting the world in Atlanta, here we are trying to silence other languages in some kind of perverted, xenophobic frenzy.

Why not ban New York Accent English, or ban Southern English? Who are we to tell the American people—a free and diverse people—which language is the only language for dignity and respect? Are we so insecure about our heritage that we have to lash out at other languages?

And what about the native American languages that were here long before English? Or the Americans who speak cajun?

Mr. Speaker, this bill is just one more example of the hot button politics that dominates this Congress since the Republicans took over. I just wonder who we'll be told to hate next week.

Mr. CONYERS. Mr. Chairman, although the focus of the debate surrounding this legislation has been on the use of foreign languages by immigrants, in reality, the core of the issue concerning minority language provisions of the Voting Rights Act is the constitutional and civil rights of American citizens—both native born as well as naturalized—whose first language is not English. The minority language assistance provisions of the Voting Rights Act have been signed into law and supported by President Ford, Reagan and Bush, as well as Presidents Clinton and Carter. During their most recent reauthorization in 1992, Senator HATCH said that the provisions are an "integral part of our government's assurance that Americans do have . . . access" to the ballot box.

Since the minority language assistance provisions of the Voting Rights Act was first adopted, they have provided a catalyst for increase voter participation in language minority populations. From 1980 to 1990, Latino voter population increased by five times the rate of the rest of the Nation, and the number of Latinos registered to vote increased by approximately 500,000 between 1990–92. Participation statistics for Native Americans also indicate an increase in turnout as a result of minority language voting assistance. Recent studies confirm that nearly three-fourths of Spanish speaking American citizens would be less likely to vote if minority language assistance were not available.

The evidence further reveals that the minority language provisions of the Voting Rights Act are a targeted, low cost method of ensuring the constitutional right to vote. According to the Government Accounting Office, the average cost of providing written assistance is minuscule, costing an average of 2.9 percent of election expenses or less. Seventy-nine percent of the jurisdictions responding to this study reported no costs in providing bilingual oral assistance.

Denying citizens minority language assistance with regard to voting will not force or encourage them to learn English As the late Hamilton Fish, Jr., then ranking Republican on

the House Judiciary Committee so eloquently state in 1992, "by enabling language minority citizens to vote in an effective and informed manner, we are giving them a stake in our society, and this assistance . . . will lead to more, not less, integration and inclusion of these citizens in our mainstream."

The most recent reauthorization of the minority language provisions were approved by overwhelming bipartisan margins of 237–125 in the House, and 75–20 in the Senate. Yet, only 4 years later, this bill would repeal these provisions without evidence that the discrimination has ended. I urge opposition to this measure.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to express my opposition to the rule for H.R. 123, which would establish English as the official language of the Federal Government.

Legislation which would establish English as our only language runs counter to our Nation's history and would create a new and unprecedented role for the Federal Government. The Founders of this country recognized the danger of restricting its citizens' freedom of expression. Language, like religion, is an intensely personal form of self-expression which must not be subject to governmental regulation.

This is a restrictive rule which does not allow for a number of important amendments, which were offered in the Rules Committee, to be offered on the floor today. I am particularly concerned that an amendment offered by Representatives CONYERS, BECERRA, FRANK, RICHARDSON and myself was not made in order. This amendment would have struck title II from the bill and ensured that no other section of the bill eliminates bilingual election requirements. I also offered an amendment that would have exempted ballots for Federal elections from the bill's official English requirements.

The right to vote is one of our most cherished and fundamental rights. It is guaranteed to all U.S. citizens by the fifteenth amendment to the Constitution and the Supreme Court has long held that the right to vote implies the right to cast an informed and effective vote. To that end, the Court has articulated that constitutional protection extends "to all, to those who speak other languages as well as those both with English on the tongue."

In 1975, Congress enacted language assistance provisions to the Voting Rights Act, recognizing that large numbers of U.S. citizens who primarily spoke languages other than English had been effectively excluded from participation in our electoral process. Congressional hearings brought forth evidence that these citizens were denied equal opportunities by State and local governments, resulting in disabilities and continuing illiteracy in the English language.

Repealing these provisions—as title 2 of this legislation would do—and denying American citizens access to bilingual ballots for Federal elections would effectively disenfranchise a large population of U.S. citizens. In fact, as the number of bilingual U.S. citizens continues to grow the need for bilingual ballots is even greater. Many of these citizens have only recently had the opportunity to engage meaningfully in participatory democracy. Bilingual ballots not only increase the number of registered voters, but permit voters to participate on an informed basis. They not only allow voters who need language assistance to be able to read to know who is running for office, but also to understand more complex voting issues such as constitutional amendments.

Language assistance is not costly. In depth studies show that the cost was either nominal or caused no additional costs. A GAO report indicates that of the 295 responding jurisdictions, the average cost of providing written assistance was 7.6 percent of the total election expenditures, and an estimated 18 States incurred no additional costs in providing assistance. Oral language assistance is even less burdensome, with costs ranging from 2.9 percent to no additional cost.

Mr. Speaker, our Nation has remained strong and united because, while we do not always agree, we share a common set of democratic ideals and values. Commitment to freedom, equality, tolerance and opportunity—not language—is what holds us together. I urge my colleagues to oppose this rule and oppose this bill.

Mr. BEREUTER. Mr. Chairman, this Member is pleased to express his support for H.R. 123, legislation to declare English as the official language of the United States. This Member not only is a cosponsor of H.R. 123, but also this Member has a long track record of cosponsoring comparable legislation since 1985.

Non-English speakers in a society where English is the predominant language are almost certainly doomed to be at an economic disadvantage in this Nation. One only has to look to the continued, divisive problems in Canada, Belgium, or other bilingual nations to realize that the United States would be well advised to avoid such a situation. Despite the lack of political courage among a few Representatives and Senators who represent border States, it is high time that Congress act on this matter.

This bill eliminates the existing Federal mandate for bilingual ballots; however, it does not make bilingual ballots illegal. Therefore, a State may continue to provide election ballots in more than one language, but only if the State so chooses. Additionally, H.R. 123 requires that all citizenship naturalization ceremonies be conducted entirely in English. The legislation does not prohibit Members of Congress, Federal Employees, and Federal officials from communicating orally with others in a foreign language. Sensible exemptions are allowed under this bill for teaching of languages, national security issues, international relations, trade and commerce, public health and safety, rights of victims of crimes or criminal defendants, and for census purposes.

Mr. Chairman, this Member strongly urges his colleagues to vote in favor of H.R. 123.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise in opposition of H.R. 123, the misnamed English Language Empowerment Act. Mr. Chairman, English-only laws, especially eliminating ballots in other languages, will disconnect millions of Americans from their Government. Denying citizens minority language assistance in voting will not force or encourage them to learn English. On the contrary, it will lead to less integration or inclusion of these citizens in mainstream society.

According to the U.S. Bureau of the Census, over 97 percent of Americans can speak English. Research has illustrated that today's immigrants are learning to speak English even faster than previous generations. Publications and information materials in other languages allow those who are learning, but not yet fluent in English, the opportunity to participate in our democracy by making informed decisions. Laws to make English official in all governmental services and departments is an avoidance and dismissal of the fact that above all institutions, our Government should respect the differences in our social mosaic. Providing multi-lingual services promotes participation by all persons in this country and recognizes that people who contribute to our tax base should have access to services for which they are eligible.

Mr. Chairman, another concern of mine is that as we force non-English speaking Americans to learn the English language, we hinder their efforts to learn English by eliminating funding for bilingual education programs. Rest assured, Mr. Chairman, that I will continue to preserve our American heritage, however, I cannot deny that the American heritage has been enriched by the culture of other nations.

Mr. Chairman, I urge my colleagues to defeat this divisive bill. I yield back the balance of my time.

Mr. SERRANO. Mr. Chairman, I stand in strong opposition to H.R. 123, the English Language Empowerment Act and in support of the Serrano English Plus substitute. H.R. 123 is devisive, unconstitutional, and unnecessary.

Supporters of this legislation say that it simply declares English as the official language. I contend that that is not true and that that bill's reach is far-reaching. Section 163(b) of the legislation states that "No person should be denied services, assistance, or facilities either directly or indirectly provided by the Federal Government solely because the person communicates in English." H.R. 123 provides an entitlement for those that speak English and permits citizens to sue. But what does that really mean? Well, at federally sponsored programs or benefits would have to be in English. If the Federal Government directly or indirectly supports opera, community cultural festivals, and even sports events like the Olympics, taxpayers are entitled to receive all federally sponsored services in English or they can sue.

The English-only requirement also would place restrictions on Internet communication. Because the Federal Government operates Internet servers, a Federal Web site that links into multilingual or non-English pages would indirectly provide services in other languages—depriving citizens of their right to English services—and would subject the Federal Government to frivolous lawsuits.

Telecommunications and broadcasting are not exempt from the bill's provisions. The Federal Government regulates telecommunications and grants, sells and regulates broadcasting licenses. Under the requirement of this bill, the Government would be prohibited from granting licenses to foreign language stations without the threat of a suit.

Even law enforcement could be handicapped by H.R. 123. While non-English languages may be used for reasons of public

safety and to protect the rights of victims of crime or criminal defendants, what about the work that is done where neither the criminal nor the victim is identifiable? Much of the investigative work done by the FBI, DEA, and ISN falls into this category.

The substitute I will offer is the modified text of a bill of which I am the primary sponsor, House Concurrent Resolution 83, the English Plus resolution. It states the Government's policy should be to encourage English as our common language, to empower its citizens by encouraging multilingualism, and to promote English proficiency through educational opportunities; but also to avoid infringing on indigenous languages; and to oppose measures that place undue burdens on one's ability to obtain services, representation or protection from the Federal Government because of limited English proficiency.

English Plus maintains that the primary language of the United States is English and that all members of our society should recognize its importance. It proclaims that our Nation's strength lies in its pursuit of justice, opportunity, and diversity. It is unnecessary to legislate what we have established by custom and tradition. Clearly there's no threat to our common language. According to the 1990 census report, 97 percent of the American population speaks English. Of those who speak Spanish at home, 80 percent indicated that they speak English "well" or "very well."

English Plus recognizes that multilingualism is an asset, not a liability to our competitiveness in our global economy. Multilingualism encourages global competitiveness and better international relations. In fact, now more than ever Americans are learning foreign languages. According to a report by the American Council on the Teaching of Foreign Languages, there has been a 5-percent increase in the number of high school students who take foreign language classes and more colleague students are taking an interest in foreign language classes.

We are a nation of immigrants and have built our culture upon that diversity. In fact, the authors of the Constitution drafted the document in both English and German. During World War II, the Korean war, and the Vietnam war, the military used speakers of native American languages to communicate in a sort of unbreakable code. You can see an indication of the history of diversity in this nation if you look around at the names of cities like Los Angeles which is Spanish for "the angels" and Pueblo, CO, which is "City, Red" in English and the Rio Grande, "Big River," one of our natural resources. We have always been a nation with diverse languages and learning other languages should be encouraged.

My substitute opposes the imposition of unconstitutional language polices on the Federal Government and the American people. In 1923, the Supreme Court declared that restrictionist language policies like those in H.R. 123 were unconstitutional. In addition, the Ninth Circuit Court of Appeals reaffirmed that view by nullifying Arizona's English-only policy. While we want everyone to be able to be proficient in English, we must not employ measures that are inconsistent with the Constitution's guarantees of freedom of speech, representative democracy, due process, and equal protection under the law.

The Serrano substitute supports the view that our Nation's strength lies in its pursuit of justice, freedom and opportunity. English-only supporters say that the common bond of our Nation is our language. Nothing can be further from the truth. Democracy—not religious, ethnic, or linguistic uniformity—is what holds this country together. Extremist language policies like H.R. 123 are devisive and racist, uniting people behind misplaced patriotism. Just think of the hardship that it would place on athletes and tourists at the Olympics if services and information were only provided in English. Inhumane policies like those found in H.R. 123, will only encourage divisiveness and resentment and delay full participation of all people in our society.

The Serrano substitute promotes the view that English proficiency is achieved through educational opportunities. Denying services and information will not help one single person learn English. Immigrants and new arrivals want to learn English—I cannot stress that enough. Studies indicate that current immigrants are learning English faster than they did 100 years ago. In California, classes operate 24 hours a day and, in New York, some immigrants must wait up to 18 months to take classes to learn English. In response to that, Republicans in the House passed the Labor, Health and Human Services, and Education appropriations bill which cut bilingual education, the program that teaches children information in their language and gradually makes the transition into completely English language classes. The House also cut the adult education program which provides funds for English as a Second Language classes.

The English Plus substitute maintains that services, information, and government protection should not be denied because of limited English proficiency. Among H.R. 123's provisions is the repeal of bilingual voting ballot requirement. It infringes on citizen's ability to receive information about elections and ballots in a language that they are comfortable with and violates the equal protection clause of the Constitution. In 1993, when I served as chairman of the Congressional Hispanic Caucus, I authored legislation to broaden the requirements under section 203 of the Voting Rights Act, which apply to bilingual voting ballots, which Congress passed with bipartisan support. Even Presidential hopeful Bob Dole supported it. Under H.R. 123 citizens from American territories like Guam and Puerto Rico—who are born U.S. citizens—would be exempt from the bill only while they live in those jurisdictions. Once they move to the States, as many of my constituents did, they will not be able to receive information or services from the Government in Spanish.

My substitute maintains the belief that our democratic process demands the highest level of speech protection. As Members of Congress, it is essential that we be able to communicate, whether in writing or orally, with constituents, colleagues, and other government officials. It is not uncommon to receive requests for information in other languages. H.R. 123 would literally prohibit representatives from communicating in writing through correspondence, press releases, and newsletters, unless it is in English.

While I think that both our bills aim to strengthen our country, the English Plus substitute empowers by encouraging opportunity and diversity while H.R. 123 imposes divisive and restrictive policies that infringe on constitutional rights. My bill affirms that English is the common language of the United States and encourages citizens to learn it. I urge my colleagues to support the English Plus substitute and if it fails, vote "no" on H.R. 123, the English Language Empowerment Act.

Mr. STOKES. Mr. Chairman, I rise today to express my strong opposition to H.R. 123, the English Language Empowerment Act. I am deeply concerned with the impact that this bill would have on the cultural fabric of our Nation.

Mr. Chairman, this bill contains provisions which would not only require Federal documents to be written in English only, but also repeals the current requirement that bilingual ballots be provided in areas with large numbers of non-English-speaking voters. By including this provision, my Republican colleagues are making blatant intrusion into the constitutionally given right to vote.

Mr. Chairman, the proceedings of our legislatures, our courts, our city councils, and the majority of our day-to-day business is conducted in English. Therefore the value of fluency in English is indisputable. Both immigrants and nonimmigrants alike acknowledge the importance of learning the English language. The long waiting lists for English classes at community colleges and adult schools are a testament to this.

Mr. Chairman, instead of isolating immigrants and impeding their integration into society by declaring English as a official language, we should devote our efforts to teaching people English in order for them to become fully participatory members of society. Unfortunately, this bill does nothing to improve immigrants' ability to be educated in the English language. In fact, as Congress pushes to pass this law, it also has slashed essential funding for bilingual education.

Mr. Chairman, the United States has always been a nation which is rich in its blend of cultural and ethnic backgrounds. This bill which seeks to mandate English as an official language misrepresents our Nation's multicultural history by implying that this Nation has always been unilingual in character. Moreover, this legislation fails to recognize the varied needs of our changing population.

Mr. Chairman, I urge my colleagues to oppose H.R. 123 and support giving immigrants the freedom to communicate in their native language.

Mrs. COLLINS of Illinois. Mr. Chairman, the Gingrich Republicans have now apparently adopted the carrot and the stick concept of legislative strategy and behavior. The Gingrich Republicans would rather wield the stick at people who are different and punish them because they are non-English speaking. The stick: read like me, talk like me, or don't try to be like me—successful, confident, self-sufficient. Not a carrot, learn the English language as well as your native language, then you can be more economically competitively because I don't speak your language. Republican stick: I don't want to compete with you on a level playing field and I am in control, so I will make a rule that says you will not ever have a chance to catch up with me.

As if the major political parties of America needed any further demonstration of their differences, H.R. 123 is another prime example from its intend to its description. The Gingrich Republicans labeled it the English Language Empowerment Act, but to the Democrats it is the English-only bill. When we look at the differences in the political parties, this can be another prime example of the arrogant, elitist demeanor of the Gingrich Republicans who do not subscribe to the basic principles of polite society and guaranteed under the U.S. Constitution that we don't all have to be the same to be acceptable.

I support programs to assist immigrants and other non-English-speaking persons to learn the English language. Furthermore, I believe it is important that our Government provide these individuals every opportunity to achieve this goal. However, at the same time, we must remain respectful of the traditions and cultures of those who came to America in search of safety, economic opportunity, a new life. No law should ever be passed which states, or even implies, that immigrants to the United States must give up their native language or traditions. It is, in fact, the intermingling of such diverse peoples which has made our country so great and this must be remembered. I am one of the fortunate Members who is privileged in representing a district that is diverse with a multi-ethnic and multi-lingual constituency. We celebrate our diversity in all things and oppose any efforts to impose a one-size-fits-all mentality for language.

One example of the ill-conceived results of this bill would be to discontinue bilingual ballots. As the cultural makeup of our Nation continually changes, so too must the Government adapt to most effectively serve the needs of all its citizens. In 1992, when Congress passed the Voting Rights Improvement Act authorizing bilingual registration forms and ballots to communities with bilingual populations, there were over 88,000 people in Cook County, IL, who had not previously been able to vote because they were not fluent in the English language. One of the most fundamental rights that we Americans are guaranteed under the U.S. Constitution is the right to vote.

Voting, justice, education, economics, and safety are just some of the areas where language should not be a barrier to access or equality. This bill, in attempting to discriminate against non-English-speaking persons, begins an unfortunate precedent.

I urge my colleagues to defeat this legislation.

The CHAIRMAN pro tempore. All time has expired for general debate.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 3898 is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3898

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 "English Language Empowerment Act of 1996".

TITLE I—ENGLISH LANGUAGE EMPOWERMENT

SEC. 101. FINDINGS.

The Congress finds and declares the following:

(1) The United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds.

(2) The United States has benefited and continutes to benefit from this rich diversity.

(3) Throughout the history of the United States, the common thread binding individuals of differing backgrounds has been a common language.

(4) In order to preserve unity in diversity, and to prevent division along linguistic lines, the Federal Government should maintain a language common to all people.

(5) English has historically been the common language and the language of opportunity in the United States.

(6) The purpose of this title is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States.

(7) By learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States.

(8) The use of a single common language in conducting official businesss of the Federal Government will promote efficiency and fairness to all people.

(9) English should be recognized in law as the language of official business of the Federal Government.

(10) Any monetary savings derived from the enactment of this title should be used for the teaching of the English language to non-English speaking immigrants.

SEC. 102. ENGLISH AS THE OFFICIAL LANGUAGE OF FEDERAL GOVERNMENT.

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 6—LANGUAGE OF THE FEDERAL GOVERNMENT

"See.
"161. Declaration of official language of Federal Government
"162. Preserving and enhancing the role of the official language
"163. Official Federal Government activities in English
"164. Standing
"165. Reform of naturalization requirements
"166. Application
"167. Rule of construction
"168. Affirmation of constitutional protections
"169. Definitions

"§ 161. Declaration of official language of Federal Government

"The official language of the Federal Government is English.

"§ 162. Preserving and enhancing the role of the official language

"Representatives of the Federal Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the Federal Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

"§ 163. Official Federal Government activities in English

"(a) CONDUCT OF BUSINESS.—Representatives of the Federal Government shall conduct its official business in English.

"(b) DENIAL OF SERVICES.—No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Federal Government solely because the person communicates in English.

"(c) ENTITLEMENT.—Every person in the United States is entitled—

"(1) to communicate with representatives of the Federal Government in English;

"(2) to receive information from or contribute information to the Federal Government in English; and

"(3) to be informed of or be subject to official orders in English.

"§ 164. Standing

"A person injured by a violation of this chapter may in a civil action (including an action under chapter 151 of title 28) obtain appropriate relief.

"§ 165. Reform of naturalization requirements

"(a) FLUENCY.—It has been the longstanding national belief that full citizenship in the United States requires fluency in English. English is the language of opportunity for all immigrants to take their rightful place in society in the United States.

"(b) CEREMONIES.—All authorized officials shall conduct all naturalization ceremonies entirely in English.

"§ 166. Application

"Except as otherwise provided in this chapter, the provisions of this chapter shall supersede any existing Federal law that contravenes such provisions (such as by requiring the use of a language other than English for official business of the Federal Government).

"§ 167. Rule of construction

"Nothing in this chapter shall be construed—

"(1) to prohibit a Member of Congress or an employee or official of the Federal Government, while performing official business, from communicating orally with another person in a language other than English;

"(2) to discriminate against or restrict the rights of any individual in the country; and

"(3) to discourage or prevent the use of languages other than English in any nonofficial capacity.

"§ 168. Affirmation of constitutional protections

"Nothing in this chapter shall be construed to be inconsistent with the Constitution of the United States.

"§ 169. Definitions

"For purposes of this chapter:

"(1) FEDERAL GOVERNMENT.—The term 'Federal Government' means all branches of the national Government and all employees and officials of the national Government while performing official business.

"(2) OFFICIAL BUSINESS.—The term 'official business' means governmental actions, documents, or policies which are enforceable with the full weight and authority of the Federal Government, and includes publications, income tax forms, and informational materials, but does not include—

"(A) teaching of languages;

"(B) actions, documents, or policies necessary for—

"(i) national security issues; or

"(ii) international relations, trade, or commerce;

"(C) actions or documents that protect the public health and safety;

"(D) actions or documents that facilitate the activities of the Bureau of the Census in compiling any census of population;

"(E) actions, documents, or policies that are not enforceable in the United States;

"(F) actions that protect the rights of victims of crimes or criminal defendants;

"(G) actions in which the United States has initiated a civil lawsuit; or

"(H) documents that utilize terms of art or phrases from languages other than English.

"(3) UNITED STATES.—The term 'United States' means the several States and the District of Columbia.".

"(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

"6. Language of the Federal Government ..... 161".

SEC. 103. PREEMPTION.

"This title (and the amendments made by this title) shall not preempt any law of any State.

SEC. 104. EFFECTIVE DATE.

The amendments made by section 102 shall take effect on the date that is 180 days after the date of enactment of this Act.

TITLE II—REPEAL OF BILINGUAL VOTING REQUIREMENTS

SEC. 201. REPEAL OF BILINGUAL VOTING REQUIREMENTS

(a) BILINGUAL ELECTION REQUIREMENTS.—Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a) is repealed.

(b) VOTING RIGHTS.—Section 4 of the Voting Rights Act of 1965 (42 U.S.C. 1973b) is amended by striking subsection (f).

SEC. 202. CONFORMING AMENDMENTS.

(a) REFERENCES TO SECTION 203.—The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) is amended—

(1) in section 204, by striking "or 203,"; and

(2) in section 205, by striking ", 202, or 203" and inserting "or 202".

(b) REFERENCES TO SECTION 4.—The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) is amended—

(1) in sections 2(a), 3(a), 3(b), 3(c), 4(d), 5, 6, and 13, by striking ", or in contravention of the guarantees set forth in section 4(f)(2)";

(2) in paragraphs (1)(A) and (3) of section 4(a), by striking "or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) in contravention of the guarantees of subsection (f)(2)";

(3) in paragraph (1)(B) of section 4(a), by striking "or (in the case of a State or subdivision seeking a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision"; and

(4) in paragraph (5) of section 4(a), by striking "or (in the case of a State or subdivision which sought a declaratory judgment under the second sentence of this subsection) that denials or abridgements of the right to vote in contravention of the guarantees of subsection (f)(2) have occurred anywhere in the territory of such State or subdivision".

The CHAIRMAN. No other amendment shall be in order except those printed in House Report 104–734 or pursuant to the order of the House of today.

The amendments printed in the report may be considered only in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, except as specified in the report, and shall not be subject to a demand for division of the question.

Pursuant to the order of the House of today, the amendment numbered 1 printed in the report by the gentleman from California [Mr. CUNNINGHAM] may be offered as modified.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on amendment, and reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

It is now in order to consider amendment No. 1 printed in House Report 104–734, as modified under the previous order of the House.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment, as modified.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. CUNNINGHAM: Page 1, line 4, insert before "English" the words "Bill Emerson."

Page 6, after line 5, insert the following (and redesignate any subsequent paragraphs accordingly):

"(2) to limit the preservation or use of Native American languages;"

Page 7, after line 3 insert the following (and redesignate any subsequent subparagraph accordingly):

"(B) requirements under the Individuals with Disabilities Education Act;".

Page 7, line 20, strike "documents that utilize" and insert "using".

Mr. CHAIRMAN. Pursuant to House Resolution 499, the gentleman from California [Mr. CUNNINGHAM] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from California [Mr. CUNNINGHAM].

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Mr. CUNNINGHAM. Mr. Chairman, is there someone in opposition to the amendment to claim the time?

The CHAIRMAN. Is the gentleman from California [Mr. BECERRA] claiming the time?

Mr. BECERRA. Mr. Chairman, while I do not oppose this particular amendment, I ask unanimous consent to control the time in opposition to this amendment. I understand that this request has been worked out with the majority.

The CHAIRMAN. Without objection, the gentleman from California [Mr. BECERRA] will control the 5 minutes in opposition to the amendment.

There was no objection.

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

The Chairman, I think we have agreement on this particular amendment. It clarifies that the bill does not affect native American languages or the Individuals with Disabilities Education Act, that are in IDEA, the special education program, that we want to make sure that children in special education can communicate in this way, and it excludes that.

The intent of H.R. 123 is not to hinder the preservation of native American languages. It is to encourage fluency in the language of American opportunity, English.

This is a technical change that eliminates the limiting reference to documents. This resolves a committee dispute over whether coins labeled "E Pluribus Unum" are documents, and would be authorized.

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

Mr. BECERRA. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I consider this legislation basically an insult to the English language and also un-American because basically it violates free speech and also discourages diversity, which I think is a hallmark of our American tradition.

The legislation has nothing to do with protecting the English language. English is a wonderful language that has survived for years in various places. To think that the language of Shakespeare has to have government help to survive.

How ironic that our Republican friends on the other side want to use government involvement to preserve the English language, which is why I think it is an insult to the language. I consider it un-American because the legislation only has two purposes: first, to make it difficult for government to communicate with its citizens; and, second, to discourage the use of other languages. Contrary to whatever my colleagues might say on the other side, that is the real purpose of this bill.

Mr. Chairman, when I say making it difficult for government ot communicate with citizens, why is it that in my office that I cannot hand out a brochure on this bill in another language? I have people that come into my office that speak Spanish, Italian, various Indian dialects, a whole panoply, really, of people that speak various languages. I should be able to speak to them, write to them, communicate with them however I please, in any language that helps them if they are citizens, which they are. It does not make sense, it is against free speech.

Second, Mr. Chairman, this bill discourages the use of other languages in public and private places. Do not get the idea that the opposite is true. Let me give Members an idea. I never

learned Italian, in part because my grandparents did not want me to, but it would be a great asset to me and to my children to know Italian. But if you put out this notion, this symbol, if you will, that people should only speak English, which is what this is about, it discourages diversity, it discourages people form learning other languages and using them. We should be doing the opposite. This is a global economy. People should use languages as an asset. In this country with so many different traditions, we should be encouraging diversity, not discouraging it.

Mr. BECERRA. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, despite the red hot rhetoric of those who are trying to score cheap political points, the truth is this. Diversity does not divide our Nation. Bilingualism does not burden our bureaucracy. Using Spanish or Polish or German to contact a constituent, collect taxes or cast a ballot does not lead to confusion. It enhances communication. It adds color and clarity and dignity to our ideas. That brings us closer together.

English-only laws disenfranchise Americans who pay taxes, play by the rules and send their children off to war.

Speaker NEWT GINGRICH often says that words have power. Therefore, by the Speaker's own logic, if you deny specific groups of Americans the ability to use words that are part of their culture, you strip them of their power. Poll taxes and literacy taxes which once stripped African-Americans of their God-given rights have now been reborn, renamed and retargeted to strike at other minority groups.

English only is the Jim Crow of the 1990's. Americans of all backgrounds are its victim. Latinos are certainly its primary targets but English-only is also a threat to Polish and Italian Americans, to Chinese and Ukrainian Americans.

In fact, Mr. Chairman, English only is a threat to America itself. It represents a rejection of America's past. There was a time when immigrants were once called upon to create a culture, not just to conform to it. English only strips America of its future as well. After all, what awaits us if we deny certain voters a role in their government, if we deny certain students the chance to learn? We deny them the chance to pursue their potential and contribute to America. We deny America of its hope.

Mr. Chairman, the United States did not achieve greatness because we all speak with one voice. Our country is great because we can, if we wish, speak with many voices.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding me this time.

Mr. Chairman, this bill is long overdue. I have a question for my colleagues in this Chamber. When you take a look at economic statistics and notice who is earning the lowest income, you will find that the people who are not speaking English, or who are not fluent in English, are at the bottom. Why do you want to keep the people at the bottom of the income scale? Give the people a chance. Give the people a chance to earn a decent income. But first you have to give them a chance to learn the English language.

Everyone knows that the English language is the language of opportunity in the United States. I had a hearing on this bill over 3 years ago, when we were still the minority. Do you know who the strongest supporters are of this bill? The new Americans. We had Latinos from all over America, especially California, come in. They are all for this legislation, because they want their kids to have a chance, a chance that they may not have had. So we are speaking for the new Americans here.

Mr. Chairman, I am not accusing anyone, but I get suspicious sometimes when I hear the politicians get up and speak. They are so out of step with the people they say they represent that it is night and day. I often think that the politicians want to keep these people down, keep them under their thumb.

I think it is about time we liberate the people. Let us give them a chance to learn the English language so they can compete in America. Teddy White, and Arthur Schlesinger both have said that, as we come to the 21st century, the greatest fear they have for our country is that America is breaking up into squabbling ethnic groups. Winston Churchill said a common language is a Nation's most precious inheritance. We want to hand this common language on to our children and to our grandchildren, and to all groups in America.

Mr. Chairman, there are many quotes from distinguished speakers on this issue, but the most insightful quote of all, I think, comes from Linda Chavez. She said, and I quote: For the overwhelming majority of immigrant children, learning English was the first and most crucial step on the road to becoming an American.

Is that not true?

Mr. BECERRA. Mr. Chairman, I yield such time as he may consume to the gentleman from Guam [Mr. UNDERWOOD].

MODIFICATION OFFERED BY MR. UNDERWOOD TO THE AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that the pending amendment offered by the gentleman from California [Mr. CUNNINGHAM], the chairman of the subcommittee, be modified by the form that I have placed at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. UNDERWOOD to the amendment offered by Mr. CUNNINGHAM: In the amendment, strike "Native American languages" and insert "Native Alaskan or Native American languages (as defined in the Native American Languages Act)."

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, I thank the gentleman from California on behalf of the linguistically liberated people from Guam.

Mr. Chairman, I rise today to clarify my intent in offering a second degree amendment to the Cunningham amendment. As a result of my amendment to the manager's amendment, indigenous languages of Native Alaska, native America and the Pacific will be affirmed and exempted from the English-only bill.

The Cunningham amendment clarifies that the provisions of the bill do not affect native American languages. I appreciate the intent of Congressman CUNNINGHAM in offering his amendment and in raising this important issue. Under the Cunningham amendment, however, Native Alaskan is not exempted, and it is not clear which definition of native American is used.

My second degree amendment clarifies that the bill does not affect Native Alaskan or native American languages as defined under the Native American Languages Act. Under the Native American Languages Act, the term "Native American" means an Indian, Native Hawaiian, or native American Pacific Islander.

My second degree amendment ensures that indigenous languages to the United States are not prohibited from being spoken or written in our communities. The amendment is an affirmation of indigenous languages and their contribution to our society. I am pleased with Congressman CUNNINGHAM's willingness to accept this second degree amendment, and for his intent in offering his amendment.

Mr. BECERRA. Mr. Chairman, I yield 30 seconds to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman very much for yielding me this time.

Mr. Chairman, I only wanted to make the point with regard to the very important matter which just preceded this, that of these 300 plus so-called foreign languages that we have heard about, almost half of them are native languages, indigenous languages to the original people of the United States, languages that were here hundreds of years before English.

Mr. BECERRA. Mr. Chairman, I yield the balance of my time to the gentlewoman from Oregon [Ms. FURSE].

The CHAIRMAN. The gentlewoman from Oregon [Ms. FURSE] is recognized for 30 seconds.

Ms. FURSE. Mr. Chairman, as someone who came to this country speaking what is termed the Queen's English and when I learned American, I want to point out in an English phrase what this legislation embodies: That phrase is cutting off one's nose to spite one's face.

This country is made up of diversity. This country is big enough to include all the languages and all the people. Let us not cut off our noses to spite our faces.

Mr. CUNNINGHAM. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. CUNNINGHAM] is recognized for 2 minutes.

Mr. CUNNINGHAM. Mr. Chairman, it is not an English-only bill. It is an official language of the Government bill. If it were an English-only bill, it would apply not only to government but to private businesses, to churches, to neighborhoods and homes, and the bill does not do that.

The gentlewoman talks about diversity. We encourage diversity and we encourage other languages, as in my own children. H.R. 123 does not apply to homes and churches, and neighborhoods, and communities, to public health, and safety, national security, international relations, the teaching of languages, the census, certain civil lawsuits, rights of crime victims or criminal defendants, or oral communication by the Federal Government.

Mr. Chairman, when talking about diversity, the census study shows that there are going to be 20 million Americans that either do not speak English or are limited English-proficient. What hope does that person have or that family? None. In my own district, I can walk precincts and go in entire blocks where no one in that house except maybe the child that is going to school speaks English. No one. What help does that child have when they go home on geometry or chemistry? None. It is because the Government has subsidized and sent information, and there is no intent to ever learn English. Some of the people there have been there since 1986 where we waived the rights for illegal coming in. Some of those same individuals have never even left that block. you talk about imprisonment. All we are doing is saying that we want the Government to operate in the official language. I would say that the State and the local have got full right to communicate. In many instances in this bill we do not prohibit the Members from communicating with their constituents. I appreciate Members' support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CUNNINGHAM], as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. The Chair is advised that the amendments numbered 2 through 4 will not be offered.

It is now in order to consider amendment No. 5 printed in House Report 104–734.

□ 1430

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SERRANO

Mr. SERRANO. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SERRANO:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "English Plus Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) English is the primary language of the United States, and all members of the society recognize the importance of English to national life and individual accomplishment.

(2) Many residents of the United States speak native languages other than English, including many languages indigenous to this country, and these linguistic resources need to be conserved and developed.

(3) This Nation was founded on a commitment to democratic principles, and not on racial, ethnic, or religious homogeneity, and has drawn strength from a diversity of languages and cultures and from a respect for individual liberties.

(4) Multilingualism, or the ability to speak languages in addition to English, is a tremendous resource to the United States because such ability enhances American competitiveness in global markets by permitting improved communication and cross-cultural understanding between producers and suppliers, vendors and clients, and retailers and consumers.

(5) Multilingualism improves United States diplomatic efforts by fostering enhanced communication and greater understanding between nations.

(6) Multilingualism has historically been an essential element of national security, including the use of Native American languages in the development of coded communications during World War II, the Korean War, and the Vietnam War.

(7) Multilingualism promotes greater cross-cultural understanding between different racial and ethnic groups in the United States.

(8) There is no threat to the status of English in the United States, a language that is spoken by 97 percent of United States residents, according to the 1990 United States Census, and there is no need to designate any official United States language or to adopt similar restrictionist legislation.

(9) "English-only" measures, or proposals to designate English as the sole official language of the United States, would violate traditions of cultural pluralism, divide communities along ethnic lines, jeopardize the provision of law enforcement, public health, education, and other vital services to those whose English is limited, impair government efficiency, and undercut the national interest by hindering the development of language skills needed to enhance international competitiveness and conduct diplomacy.

(10) Such "English-only" measures would represent an unwarranted Federal regulation of self-expression, abrogate constitutional rights to freedom of expression and equal protection of the laws, violate international human rights treaties to which the United States is a signatory, and contradict the spirit of the 1923 Supreme Court case Meyer v. Nebraska, wherein the Court declared that "The protection of the Constitution extends to all; to those who speak other languages as well as to those born with English on the tongue.".

SEC. 3. GOVERNMENT POLICIES.

The United States Government should pursue policies that promote English as the common language of the United States and that—

(1) encourage all residents of this country to become fully proficient in English by expanding educational opportunities and informational resources;

(2) conserve and develop the Nation's linguistic resources by encouraging all residents of this country to learn or maintain skills in a language other then English;

(3) respect the treaties with and the customs of Native Americans, Native Alaskans, Native Hawaiians, and other peoples indigenous to the United States and its territories;

(4) continue to provide services in languages other than English as needed to facilitate access to essential functions of government, promote public health and safety, ensure due process, promote equal educational opportunity, and protect fundamental rights; and

(5) recognize the importance of multilingualism to vital American interests and individual rights, and oppose restrictionist language measures.

The CHAIRMAN. Pursuant to House Resolution 499, the gentleman from New York [Mr. SERRANO] will be recognized for 30 minutes and a Member in opposition will be recognized for 30 minutes.

Mr. CUNNINGHAM. Mr. Chairman, I rise in opposition, and I ask unanimous consent that 15 minutes of the 30 minutes I control be controlled by the gentleman from Florida [Mr. CANADY].

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] will control 15 minutes and the gentleman from California [Mr. CUNNINGHAM] will control 15 minutes in opposition.

The Chair recognizes the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the discussion we are having today is a classic example of how a nonissue becomes somewhat of an issue in this House. It seems that everyone is saying, on that side of the aisle, that there is a major problem with the English language in this country; that somehow people do not want to learn to speak English; that children are running around this Nation speaking only other languages and not English, and that somehow, unless we here today and later on in the other House protect the English language, the language and the Nation will somehow cease from being the great language and the great Nation that they are today and become something that we will not recognize.

What is interesting about this nonissue being made into somewhat of an issue is that it is totally false. The fact of life is, as has been said on this floor, that 97 percent of Americans, according to the Census Bureau, speak English; that people who come to this country, incidentally, whether with documents or without documents, are coming here for one specific reason. They want to make a new life for themselves and for their children. They leave behind their country, in many cases they leave behind members of their family. Now, does it make any sense that the first statement they hear upon arriving in our country is that they do not want to speak English?

I can tell my colleagues through a personal example that in the Hispanic and the Puerto Rican community when people sit around a dinner table and the issue of language comes up, it is never a plot against the English language, it is a lament about the fact that the children and the grandchildren no longer speak Spanish. Whether it be rap music or rock or soul or the latest dance craze, television, "Nick" during the day or "Nick at Night," whether it is school or the street, English empowers and takes over everyone's life so that English becomes, in fact, the common language.

What we are saying here today is that we want to make it the official language so that I cannot communicate with the foreign minister from Mexico in Spanish or the new president from the Dominican Republic who will be writing to me, as I know he will, in Spanish. I will have to write to him back in English, unless I break rules of this House.

We are sending a message to the world that if they want to speak to us or write to us, they must do it in our language because we are too arrogant to deal with them.

This is a misguided concept and one that is not necessary. My amendment in the nature of a substitute, English Plus, says that English only is unnecessary. It recognizes that English is the language of this land. It encourages all residents and citizens to speak English. It asks Government to help each one of us to learn to speak English, but it also says, my amendment, that we recognize that there are other languages in this country, and that rather than running away from them and being nervous about them, we should recognize them as a resource for our country.

The message should be, sure, there are some of us who speak Spanish and Japanese and French and German, other languages. We will learn to speak English, we will function in English, but if we maintain that second language, we use it as a symbol to the world that we are ready to deal with them; that we are not in a phobia about languages.

What my amendment simply says is that we recognize who we are as a people, but we recognize the diversity in our country and we strengthen that diversity by supporting English as our common and main language, as the language of this country, but also not suggesting that to speak another language, to read another language is a problem.

Now, I could have delivered for Members this speech, whether they think it is good or bad, in Spanish totally, and I could write it in Spanish and I could read it back in Spanish. I do not think the fact that I am bilingual, that I listen to music and lyrics in two languages, that I read literature in two languages has in any way hurt me at all. On the contrary, I think, at times, I may be an asset to this House because I know what people are saying in Latin America. I do not know the translation, I know exactly what they are saying in Latin America and how they are saying it.

Let us not run away from the strength of this country. Let us support this amendment and make English Plus the way of the land.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, American society has developed on the melting pot theory. We are a nation of immigrants from diverse backgrounds and cultures who have come together as one people, the American people.

Learning to communicate in English is one of the most important ways in which this coming together, the transformation from the many to one, takes place. Of necessity, each of us or our forefathers have had to learn English in order to succeed. As Americans, we all value our heritage, but we also recognize that as Americans, we must become proficient in English if we are to fully participate in all facets of American life.

The 1975 bilingual ballot amendments to the Voting Rights Act have had the effect, whether intended or not, of encouraging minority language dependency and therefore self-imposed segregation, both politically and culturally.

English is our common language of discourse. In recognition of this fact, now more than ever, the Federal Government has a responsibility to look for things to bring us together as a nation and unify us rather than encouraging further separation along ethnic lines. Ballots are the recognized formal instrument for citizen participation in the electoral process. The ballot's highly official nature gives great weight to all that is written on the ballot. Present this information in English, and the message is unmistakable that English is the official language of our shared public life. It is the language Americans use that affects the future of our Nation as a whole.

A ballot in two or more languages delivers a very different message. It sanctions other languages as coequal to English in the process that determines the future of our Nation. It says that the highest authorities in the land place no special value on the English language as we participate in the central act of democratic self-governance.

In addition, the Federal mandate requiring bilingual ballots is both ineffective and expensive. The county registrar for Yuba County, CA, Mrs. Frances Farey, testified before the Judiciary's Subcommittee on the Constitution that in 16 years she received only one request for a bilingual ballot. She testified that for just three elections the county has spent over $46,000 to comply with the Federal bilingual ballot requirements.

According to statistics from the Census Bureau, voter participation and registration rates by Hispanic voters have in fact decreased, decreased since this Federal mandate was first imposed in 1975. In addition, bilingual ballots are expensive. The Congressional Budget Office estimates that repealing the Federal bilingual ballot mandate will save State and local governments between $5 and $10 million for each election. Finally, as I have stated earlier, bilingual ballots are divisive and harmful to our society as a whole.

The Serrano substitute strips the bilingual ballot repeal from this important legislation. I urge my colleagues to reject government-sanctioned and enforced multiculturalism and to vote against the Serrano substitute.

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

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, some of my colleagues, including my friend the gentleman from New York, JOSÉ—I am sorry, should it be JOSEPH—SERRANO, may be surprised to hear this, but I rise to say that I think that H.R. 123 might be a good bill. I would like to propose maybe that we should have a few other amendments to make this bill even better than it is.

I propose that the bill be amended to require that all of our embassies use English as their only language, an amendment also requiring our embassies here in Washington to speak only English.

I propose that we have an amendment barring any Federal money to be paid to interpreters in this Nation.

I propose that we have an amendment requiring that we remove the words "E pluribus unum" off our dollar bills.

I propose that we amend our rules so that when we adjourn we do not say "sine die," or is that "sina dei"?

I propose an amendment that we forbid U.S. companies from doing business in countries where they do not speak English.

I propose an amendment barring the President and Members of Congress from visiting nations where English is not the official language.

And since we are legislating an official language, how about an official religion to go along with it? Come to think of it, why do we not just get rid of the first amendment altogether?

Mr. Chairman, without these amendments, I urge my colleagues to vote against this bill until we get it just right.

We all know that this bill is just as ridiculous as the amendments I just proposed. I urge my colleagues to vote against it and let us get on with the work that our constituents sent us here to do. Meantime, let us vote to support the Serrano amendment.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentlewoman from the great State of Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in strong support of H.R. 123 and in opposition to this substitute. Every immigrant who has come to this country has known that English is the language we speak here. This bill would just reinforce that fact.

Since the Census Bureau reports that 47 percent of the foreign born population do not speak English well or at all, it seems that this fact needs to be reinforced.

Now, if any of us wanted to move to France or Japan, we would look awfully silly complianing about having to learn their local language. Why is it somehow a horrible violation of human rights to insist that people living here, and especially people who move here deliberately from elsewhere, learn our language?

Federal statutes require right now that every applicant for naturalization must demonstrate an understanding of the English language, including an ability to read, write and speak words in ordinary usage in the English language.

Now, that is tremendously important. Why are we even debating this? It is in the statute right now. There are special exemptions for those physically unable to do so or those over 50 years of age who have resided in this country for 20 years or more.

We are threatening no one by declaring that the official language of this nation of immigrants is english. With so many cultures and so many traditions, none of which do we seek to suppress or denigrate, we need to coalesce around common values. Language is one of these, and so today I hope that we pass this bill making English the official language of this Government.

The bill specifically exempts communications that address health or safety. These are communal concerns. Uniting all Americans with the English language is not anti-immigrant.

Mr. Chairman, I urge my colleagues to vote for H.R. 123.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON], a great Hispanic American from New Mexico, with an interesting name.

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

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

Mr. COLEMAN. Mr. Chairman, I rise in support of the Serrano amendment and of course in opposition to that embarrassing legislation known as "English only."

□ 1445

Mr. RICHARDSON. Mr. Chairman, if this bill passes, I would be unable to effectively communicate with 60 percent of my constituents. Hispanic Americans make up 40 percent in my district; native Americans, the first Americans, 20 percent.

Mr. Chairman, I wonder what is going to happen with the cities of Los Angeles, San Francisco, San Diego, Santa Fe? They ought to start thinking about changing their names. What about Dodgerville for Los Angeles?

Mr. Chairman, this is facetious, but realistically what we are talking about is a wedge issue that is not necessary. I think the author of this bill is well-intended and he is a good guy. But, Mr. Chairman, English is not threatened as our primary language. Ninety-seven percent of the population in this country speak English. Newly arrived want to learn English. That is happening.

Bilingual voting ballots are critical for minority populations. Basically what we are doing is totally unconstitutional. It is going to make government inefficient and ineffective. English-only restricts access to services and government.

But, most importantly, this is against our traditions and this is bad business. Forty percent of all commercial decisions in the United States are done in another language. Tourism is critically important. Just think of the spirit of the Olympics right now in Atlanta. We are telling the billions watching the Olympics that English is the only language and the rest of the languages are not important. The most important business in the Olympics is translation service. That is not the message that we want to send to the rest of the world.

Mr. Chairman, English-only will divide this country. It is divisive, it is negative, and it should be rejected.

At a time when intolerance among ethnic groups has become one of the major threats to peace on Earth, and when the global economy requires multilingual skills, America, the land of opportunities, equality and freedom, wants to pass a bill that would jeopardize the very essence of what historically has united this great Nation—tolerance and respect for our differences.

The English Language Empowerment Act of 1996, will not unite or empower America. Instead, it will aggravate racial and ethnic tensions and will hurt our economy.

If we start telling people the language they should speak, we are entering a very dangerous path that could lead to us dictating to Americans the religious and political beliefs they should practice. This will only spark resentment and increase discrimination among ethnic groups causing a tremendous social distress.

If our residents are not learning English fast enough, it is not because we are teaching them in their native language. The problem is that we have failed to provide enough resources to increase the number of English classes so that people can learn our common language.

According to recent estimates, only 13 percent of the demand for English as a second language classes is being met and over 45,000 students are on the waiting lists in major cities like Los Angeles.

This bill does nothing to address this problem. English-only does not improve educational opportunities. Instead, it focuses on prohibiting the Federal Government from using languages other than English when conducting official business.

Yet, this bill will not only increase tensions among ethnic groups and jeopardize the well-being of our economy, but most importantly, it will endanger one of the most sacred American ideals—democracy for all.

Title II of the English Language Empowerment Act of 1996, would repeal a Federal law requiring bilingual ballots for many non-English speaking voters.

Since the founding of our Nation, many Americans have been deprived of their inalienable right to participate in the democratic process by negating, either legally or illegally, their right to vote. Prior to the Civil War, mainly male property owners who were over 21 years of age were enfranchised. After the war, tactics such as fraud, economic blackmail and violence including murder were used to discourage and prevent people of color to exert their right to vote. Some States made voting difficult by designing complex balloting procedures as well as requiring literacy tests.

Decades of popular outcry have forced Congress to pass several laws and amend the Constitution twice in order to protect the voting rights of all Americans. In response to real evidence of discrimination against racial minorities at the polling place, Congress passed the Voting Rights Act of 1965. This act, as amended in 1975, contains bilingual voting provisions that guarantee that no American is denied the fundamental right to vote because of a lack of fluency in English.

Years of struggle by the American people as well as previous congressional efforts to make the ideal of universal suffrage a reality in America will be rolled back by the English Language Empowerment Act of 1996. This act would strip non-English speaking voters of their right to have a voice in the political process by repealing the bilingual voting provisions from the Voting Rights Act. In my district alone, this bill will directly affect 60 percent of the population, which is either Hispanic or native American.

The bilingual voting requirements are a valuable, inexpensive and inclusive tool that ensures that the sacred constitutional right to

vote, which is the very foundation of democracy, is enjoyed by all.

Mr. Chairman, I submit the following for the RECORD:

English is not threatened as our primary language: According to the Census Bureau, 97% of the US population speaks English. Furthermore, on 0.06 percent of federal documents are in languages other than English, according to the General Accounting Office (GAO). Newcomers to our country are learning English faster than ever before. In fact, recent estimates indicate that only 13% of the demand for English-as-a-Second-Language (ESL) classes in being met—waiting lists in some major cities exceed 40,000.

Bilingual voting ballots are critical for minority language populations: Title II would have a devastating impact on the rights of language minority populations to participate fully in the democratic process. Removing language barriers is a targeted, low-cost, common sense solution to achieving informed participation, considering the complex language of ballot propositions and voting issues.

Native Americans and Alaskan Natives, Puerto Ricans, The People of Guam and other U.S. territories, and elderly naturalized citizens will be particularly impacted.

According to the Government Accounting Office, the average cost of providing written assistance is minuscule, costing an average of 2.9% of election expenses or less.

Also, according to the Justice Department, since 1975, voter registration and voter turnout have increased substantially as a direct result of existing minority language provisions.

English-only is unconstitutional and makes government inefficient and ineffective: The Arizona "English-only" initiative has been found to be unconstitutional by the Ninth Circuit Court in *Yniguez* v. *Arizonans for Official English*. According to the Courts, it violates the First Amendment right to free speech. The 9th Circuit Court found that employees' knowledge of diverse languages made government more efficient and less costly. The Arizona law and legislation pending in Congress would outlaw communication between elected officials and their constituents in any language but English.

English-only restricts access to services and government: Millions of tax-paying citizens and residents would be unable to access and communicate with their government. That would include residents of Puerto Rico, Native American reservations and U.S. territories in the Pacific, whose right to communicate in a native language is protected by treaty or custom. English-only has nothing to do with improving education or educational opportunities. Instead of facilitating learning and communication, proponents of English-only focus on prohibiting the use of other languages.

This is contrary to the American tradition and is divisive: It is not the English language that unites us, but rather our democratic system based on our rights established by the Constitution of the United States. President Franklin Delano Roosevelt once said, "We are a nation of many nationalities, many races, many religions—bound together by a single unity, the unity of freedom and equality."

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ]

Mr. MENENDEZ. Mr. Chairman, for the past week and a half we have celebrated the centennial Olympics in Atlanta—a celebration at which over 70 different languages are spoken. Yet, while that celebration of spirit and diversity continues this legislation sends the wrong global message. Don't come visit us, don't trade with us, if you can't speak English. This legislation is a solution to a problem that does not exist and has not existed for the last 200 years.

The strength of our language is its diversity. If you study linguistics, then you know that English is really two languages of Germanic and Frankish origin. That is the strength of our language—its dynamism. It has absorbed thousands of words from other languages. The coffee you drank this morning is an Arabic word. Most of our vocabulary is actually Latin. Our medical terms are Greek absorbed wholesale.

Knowledge and command of English is important. Every immigrant to this country understands the economic motivation for learning English. Without it they may survive, but they will not thrive.

As today's world becomes increasingly integrated and inter-dependent it is short-sighted and ignorant to believe that policies of isolationism and protectionism will serve America in the 21st century. They limit our ability to interact in the growing world market place, they bolster ethnic and racial tension and they diminish the character and strength that America is known for world wide—our diversity.

Lastly, Mr. Chairman this bill is unconstitutional. In 1923 the Supreme Court found a similar case unconstitutional. The court said,

The protection of the Constitution extends to all, to those who speak languages as well as those born with English on the tongue. Perhaps it would be advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution. . . .

The American language needs no defense or protection. Those who promote this type of legislation are the "Down on America" crowd. They are threatened by change. They are the voice of exclusion and peddle a divisionism that is truly un-American. Discrimination based on language is as strong as that based on race.

I refuse to be down on America. I believe in the dynamic liveliness of America and our culture. Our culture is the gift of all the rich cultures that built this Nation. Why do you think people around the world look to America, listen to our music, watch our films, follow our news? Yes, let's promote English—but, let us not divide America.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, "From many, one". It does not say, "From many, more". It says that we may have diversity, but we have to have a common ground, a common language, that meeting place.

Now anyone who feels that that is some kind of antiquated idea, all we have to do is go look to our friends to the north and look at the strife in Canada caused by people who are divided based on the languages they use because they do not have the common bond that we have practiced for so long in America and which has created the cherished experience we call the American way of life.

Mr. Chairman, I just wonder why people hide behind a term like "multiculturalism" when they do not want to admit what it really means. I live on the Mexican border. I live in an environment where I see people speak different languages. But I also see what happens to people when they do not have that common language of English to be able to move them up.

Mr. Chairman, I see those that are deprived of equal access to economic opportunity and those who would do that for political gain.

Now, I want to present into the RECORD a grand jury report done about a school district in my county that verified there was a conscious effort done in the name of multiculturalism to make sure that the children in that school district did not learn English, did not have access to the common language.

Mr. Chairman, the only way I can find any justifications for this is that there are people out there who want to divide us, who want to separate us for whatever reasons. Maybe it is easier to manipulate them politically, maybe it is easier to isolate them for economic reasons. But I think that we have got to recognize that all we are saying here today is: Let us not divide us. Let us not make more from many. Let us remember that we need that common ground, that one where we all can meet.

Mr. Chairman, I submit the following for the RECORD:

GRAND JURY,
COUNTY OF SAN DIEGO,
San Diego, CA, June 18, 1992.

Hon. ARTHUR W. JONES,
Presiding Judge of the Superior Court, County of San Diego, San Diego, CA.

Re Grand Jury Report No. 5, "San Ysidro School District".

DEAR JUDGE JONES: Forwarded herewith is Grand Jury Report No. 5 as referenced above.

This investigation was conducted by the Education Committee of the Grand Jury within the authority granted under California Penal Code Sections 925 and 933.5.

Sincerely,

Richard B. Macfie, Foreman.

Enclosure.

SAN YSIDRO SCHOOL DISTRICT

(A REPORT BY THE 1991–92 SAN DIEGO COUNTY GRAND JURY)

AREA OF CONCERN

Complaints of improprieties committed by the Trustees of the San Ysidro School District Board and other administrators have

attracted the attention of the past three consecutive San Diego County Grand Juries. In monitoring responses to previous Grand Jury recommendations, the 1991-92 Grand Jury has found the performance of the District Board of Trustees to be as ineffective as previously reported and the schools within the District to be suffering accordingly. After several months of review, this Grand Jury finds that previous recommendations to the District Board of Trustees have been ignored and that drastic actions by higher authority are essential to proper support of administrators, teachers, students and parents.

Grand Juries sit for a twelve-month period and can, and have repeatedly, recommended effective intervention to aid the children in San Ysidro. Another Grand Jury report that does not initiate immediate remediation by higher authority will only reinforce the perception that the San Ysidro District Board of Trustees is as "untouchable" as they claim to be. For those in control at the higher levels of education to imply that nothing can be done to give the children of the community some hope for the future, is an inane posture for government to assume, when the future of more than 3,000 children is ignored.

BACKGROUND

San Ysidro is a twenty-nine square mile portion of the City of San Diego, which lies north of Tijuana, Mexico. Caught in the middle of these two large and rapidly growing cities—Tijuana and San Diego—the community is economically, politically, linguistically, socially and geographically isolated. It is often mistaken for an independent subdivision.

San Ysidro constitutes a school district separate and independent from the San Diego Unified School District, which includes all other public schools within the City of San Diego. The San Ysidro School District consists of five elementary schools and one middle school. Graduates of San Ysidro Middle School attend high schools in adjacent school districts. The schools have an approximate enrollment of 3,700 students, and they represent a population which is 92% Hispanic.

Politically, San Ysidro is comprised of 5,336 registered voters, out of a total adult population (18 and over) of 13,414. The District Board of Trustees, the only elected body in the San Ysidro community, consists of five members who serve staggered terms of four years. The School District is the largest employer in the community.

Over a period of several years, the San Diego County Grand Juries have received an uninterrupted flow of complaints alleging malfeasance and/or incompetence on the part of the majority of the School District Trustees and some administrators and teachers. Complaints have been received from parents. These have included numerous allegations of wrongdoing, including violations of State law (violations of the Brown Act and Education Code), and of Federal Law (employment discrimination) and of failure to support mandated objectives for the education of the school population. Additionally, the District has been involved in excessive and expensive litigation in recent years as a result of its unlawful personnel actions.

METHODOLOGY OF INVESTIGATION

Through its Education Committee, the Grand Jury has visited facilities and heard testimony from Board Members, administrators, teachers, parents and students within the San Ysidro School District. The committee attended board meetings and PTA meetings and held discussions with County and State Education Department personnel. The Grand Jury has heard sworn testimony from numerous witnesses during ten days of formal hearings on San Ysidro school issues. Information thus generated, confirming the findings of previous Grand Juries, has resulted in a clear picture of conditions of inappropriate, inadequate actions taken by certain members of the Board of Trustees, some of whom minunderstand their purpose.

FINDINGS

The 1991-1992 Grand Jury concurs with previous juries in that serious problems exist within the San Ysidro School District. In general, the Jury has found that the children of San Ysidro are innocent victims of a philosophical power struggle which permeates the School Board, school administration, the teachers' union and the PTA. At issue, beneath a veneer of educational rhetoric, is which shall dominate the school system: the preservation of Mexican cultural and Spanish language proficiency or assimilation of Mexican-born and other American children into the North American communication and economic systems.

The two philosophies are addressed as if they are mutually exclusive. Currently, proficiency in Spanish with the preservation of Mexican culture, at the expense of English learning, is the governing philosophy. Those who disagree do not enjoy the normal position of loyal opposition. Administrators and teachers who do not support the majority Board position are demoted or discharged, if legally possible.

Dissenters who have tenure are merely tolerated in an outcast status. A small group of administrators and teachers enjoy the political/philosophical favor of the Board majority and have a special status which is tantamount to ex-officio Board membership. This almost unbelievable situation persists because the Board of Trustees is essentially a town council, perpetuated by a combination of intimidated voters, apathetic non-voters and resident non-citizens.

Specifically, the Grand Jury has received evidence and testimony that:

1. The Board of Trustees is a de facto town council with extraordinary influence over numerous facets of life within the San Ysidro community of San Diego. Certain members of the Board exert a pervasive influence over resident voters which exceeds that normally attributed to elected officials. The Trustees' attention and efforts are extended far beyond the educational purposes of the School District.

2. Some Trustees routinely violated the spirit, if not the letter, of the Brown Act by conducting majority meetings in closed sessions outside of the time and location of scheduled board meetings, such as through a group called Equality, Justice and Education (EJE).

3. Health and safety needs of children are not being met:

a. Playgrounds are badly maintained and present a hazard;

b. The District has one certified nurse serving the total school population.

4. The Trustees have conducted personnel transactions, such as hirings, firings, promotions and demotions, without acceptance of counsel from the Superintendent of Schools or from any committee or panel of educational professionals or parents. Some of the results of these practices are:

a. There have been five superinendents over the past twelve years.

b. Non-Hispanic teachers and administrators are not afforded equal opportunities by the District Board Trustees.

c. During the 1990-91 year, the District Board of Trustees demoted three elementary school principals, fired the middle school principal and failed to renew contracts of fourteen probationary teachers. Several of the teachers were bilingual. The District now has eleven teachers working with emergency credentials. These actions were taken without the concurrence of the Superintendent. The three demoted principals have subsequently received judgments totaling $300,000.00. The fired principal received a judgment of more than $200,000.00. The District has paid out at least $1,000,000.00 in judgments and legal fees arising from the ill-conceived and often illegal personnel actions of the Trustees.

d. The same improprieties that occurred with personnel in past years continue to exist. During the 1991-92 school year, several administrators at the District's central office have received notices of reassignment.

e. Well-qualified bilingual probationary teachers, who happen to be non-Hispanic, are being terminated.

f. Several outstanding tenured staff members, including a mentor teacher, have been given unsatisfactory evaluations with no clear justification for such action.

g. There have been attempts to initiate recall of Trustees in recent years. Each recall has been challenged by Board counsel before reaching a ballot. The Trustees authorized more than $5,000.00 from the general fund to be used to verify signatures in the recent 1992 recall efforts. These recall attempts have proven costly and divisive to the staff, students and community.

h. Some personnel assignments initiated and directed by the Trustees appear to reflect nepotism. When queried on this subject, a Trustee said, "favoritism, yes; nepotism, no". A Trustee's son was promoted from Vice-Principal of the Middle School to Principal in mid-term, April 3, 1992. The established selection procedures were not followed.

5. The Board of Trustees, as the only elected body in San Ysidro, has been instrumental in increasing the political and cultural isolation of the community and has retarded integration of children into an English-speaking American society and economy. The almost universally Hispanic ethnicity of the student population makes the English language transition a most difficult objective for the school system. The opposition of the majority of the Trustees to this objective virtually guarantees its failure.

6. The Board has failed to direct or support proper use of funds provided for bilingual education. In several instances, students were placed in the Bilingual Program or English-Only Program, based on space availability, with no regard for parental request or children's needs. We found no transition evaluation for students exiting the Bilingual Program and moving into an English-Only Program. We found no clearly-defined District-wide bilingual curriculum in place.

7. The Board has failed to direct or support compliance with mandated accommodations for the educationally and physically disabled. There is no program for the Severely Emotionally Disturbed (SED) within the District, even though students have been identified. The District's solution is to hire individual aides for some SED students.

8. The Resource Specialist Program (RSP) teacher is used to provide services to non-Special Education Students. This is in violation of the Education Code.

9. The District has violated the rights of Special Education Students' Individualized

Education Program (IEP). Every identified Special Education student must have an IEP.

10. Special Education students are misplaced in the Alternative Learning Program (ALP).

11. Reports of child endangerment have been received. At least thirty-nine students from the San Ysidro Middle School were placed on Home Study without due process.

a. Approximately twenty-five students were suspended for more than five consecutive days, which is in violation of the Education Code. Alternatives to suspension were not considered or applied.

b. Complaints of corporal punishment within the District have not been properly investigated.

c. Complaints concerning unprofessional disciplinary methods used at the Middle School have been reported.

12. Complaints of racial discrimination have been made by non-Hispanic students and staff. This involved the inappropriate placement of students and staff. Students complain of racial slurs, name calling and double standards in dress code.

13. The District does not have an Earthquake Preparedness Plan in place. Classrooms are not equipped with required supplies.

14. Complaints were levied by parents and staff members against an administrator for contracting the services of a psychologist who was not credentialed by the State of California.

a. The Student Assistant Team (SAT) was not involved in identifying students who might require the services of a psychologist.

b. Parents of students seen by this psychologist were not contacted, nor were parent-consent forms signed, as is required.

15. The current President of the Board of Trustees, who is an employee of Casa Familiar, could be in direct conflict of interest, if the District incorporates the Casa Familiar BRAVO Dropout Prevention Program proposed by the President.

16. The Board of Trustees *DOES NOT* take advantage of available in-service training.

17. *Test scores of the San Ysidro students continue to be the lowest in the State of California.*

CONCLUSIONS

Over the years, the Board, as an elected body, has proven to be highly politicized, serving its own agendas and abrogating the educational rights and privileges of the children of San Ysidro. Children have neither the maturity nor the right of franchise by which they can make informed decisions concerning their future. Students are at the mercy of two groups of self-involved and self-important adults, both dedicated to their own objectives rather than the smooth integration of children into the mainstream of American society and the U.S. economy.

One group is preoccupied with maintaining its position of political power in the community through election to the school board. From this and other positions it controls within the school district, this group exerts a pervasive influence over the community which exceeds by far that normally exercised by elected school officials. The other group, for the most part, is made up of members, admittedly or otherwise, of a movement known as EJE who occupy positions on the Board, in administration, in teaching and in the teachers' union. Some are parents of students. These are advocates of a particular course of bilingual education which puts the highest priority on development of a capability in Spanish, at the expense of teaching English. They believe in this with a dedication and zeal which are most threatening to any who dare to disagree. The net result has been and continues to be children unable to communicate. Many of these students drop out after entering high school.

The symbiotic alignment of these groups allows them to maintain complete control over everything and everyone within the School District. Non-conformists are demoted, fired or otherwise eliminated from the system. With very few exceptions, non-Spanish speakers are purged from the system, regardless of qualifications or performance. So are those bilingual teachers who consider English proficiency a matter of urgency.

Those who favor a "laissez faire" solution to the San Ysidro problem—that is, letting the voters correct the situation—do not understand the unique nature of this small, isolated, predominantly Hispanic community. Many of the residents are not citizens. Many of the citizens are not registered voters. Many of the more informed and/or affluent residents have removed their children from the District Schools and placed them elsewhere, legitimately or otherwise, to ensure their preparation for high school. Many of the residents are intimidated by the ruling coalition. Many have testified before the Grand Jury about vicious retribution for campaigning for any opposition. Only the bravest of the residents dare to oppose.

Some of the problems appear to stem from violations of State laws, and partial solutions may result from actions initiated by the District Attorney and/or State educational licensing authorities. However, if the situation in San Ysidro is to be corrected permanently, approval of pending legislation and the intervention of the State Superintendent of Schools will be required.

There is no logical reason for a separate school district in San Ysidro. San Ysidro is within the City of San Diego and should have the management and resource capabilities of the San Diego Unified School District available to support its children's educational needs. As an alternative, the District could be merged into the South Bay or Chula Vista School Districts. The heart of the matter is that the children need a system run by professionally capable and idealistically balanced leadership. They don't have it now, and the controlling political interests in San Ysidro are not about to provide it. In the meantime, more aggressive participation in seeking a solution by the County Superintendent of Schools, the Councilman representing San Ysidro and the appropriate State Legislators might better convey to the State Superintendent the urgent need for decisive action.

It is the conclusion of this Grand Jury that the Trustees of the San Ysidro School Board are fully aware of the deleterious effects on education of their policies and practices. They need only observe the dismal test scores (in both English and Spanish). However, they are either unable or unwilling to make remedial changes. The Jury further considers that the Board can and will prevent solutions by other persons or agencies as long as it exists in its present form. It should be noted that many of these conclusions are totally consistent with those of prior Grand Jury reports, even though attained through completely independent studies.

The fact that the Board is elected is immaterial. Letting nature take its course will not lead to correction at the hands of the voters. Despite the strong protests of many parents and teachers, the combination of an attitude which comes from a patronage system and voter apathy will perpetuate the status quo unless outside authorities take action. There is a clear need for legal authority to rescue an oppressed minority—the school children—and protect their rights under the law.

There are those in San Ysidro who argue that no one, including the Grand Jury, should interfere in matters that involve only the residents of San Ysidro. The members of the Grand Jury do not agree with this line of reasoning. Citizens support legal intervention to protect children from clear and present danger of physical or emotional abuse at the hands of adults. Likewise, they should support intervention to eliminate the willful retardation of the educational process and the resulting economic disenfranchisement of the students.

The State Department of Education is mandated to take over any school district which is financially bankrupt. There is pending legislation (SB 171 Focus School) which will mandate State intervention for an academically at-risk school district. The San Ysidro School District with the lowest test scores in California would certainly be a candidate for State intervention. The San Ysidro School District on the brink of financial bankruptcy is already educationally bankrupt.

RECOMMENDATIONS

The Grand Jury recommends that:

County Board of Supervisors

#92/120: Exert all possible influence through established governmental liaison to:

a. Support whatever proposed legislation would facilitate intervention by state and/or local authorities in situation such as that in the San Ysidro School District.

b. Petition the California Superintendent of Schools to intervene immediately in the operation of schools in the San Ysidro School District.

San Diego County District Attorney

#92/121: Investigate alleged violations of State laws by Trustees, administrators and teachers for possible prosecution and/or accusation.

San Diego County Superintendent of Schools

#92/122: Petition the California Superintendent of Schools to intervene in the operation of San Ysidro schools and to conduct whatever audits and investigations are required to validate and cause correction of serious deficiencies and code violations.

#92/123: Assist the San Ysidro Superintendent of Schools in any way possible to minimize the harmful effects of current practice.

San Diego City Council

#92/124: Address the San Ysidro School District situation as a serious problem within its city.

#92/126: Exert all possible influence on the California Superintendent of Schools to take urgent measures to correct the situation in the San Ysidro School District.

#92/126: Support legislation which would permit timely corrective action in situations such as that in the San Ysidro School District.

Councilman, Eighth District, City of San Diego

#92/127: Demonstrate active involvement in the San Ysidro School District problem and express concern publicly for the critical situation which exists for the children and their future. Bring public awareness to the fact that this is a serious situation but not a racial issue.

While the Grand Jury has no jurisdiction over the officials listed below, the following

recommendations are submitted with the request that they receive consideration (these recommendations are also subjects of separate correspondence).

The Grand Jury recommends that:

Secretary of Education

#92/128: Require a thorough audit of federally funded categorical programs within the San Ysidro School District to include:

a. Bilingual Education
b. Special Education
c. Independent Study
d. Student Home Study
e. Alternative Learning Program

California superintendent of schools

#92/129: Assign a trustee to oversee operations of the San Ysidro School District until serious deficiencies and violations of the Education Code are corrected.

#92/130: Investigate and evaluate the use of health aides in lieu of certified nurses by the District.

#92/131: Direct the Commission on Teacher Credentialing, through its Legal and Professional Standards Division, to review allegations of misconduct by a San Ysidro School administrator and teachers and examine irregularities in selection and appointment practices.

#92/132: Conduct a fiscal audit of categorically funded programs, to include:

(a) Bilingual Education
(b) Special Education
(c) Independent Study
(d) Student Home Study
(e) Alternative Learning Program

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, there is an old saying: "If it ain't broke, don't fix it." There is a new saying here today: "If it ain't broke, break it." There is really no rational reason for this bill.

In Dade, Broward, and Palm Beach Counties in Florida, there are 700,000 Cuban-Americans, and I have great respect for the two Republican Cuban-Americans that represent that area. If they get a letter in Spanish, if they answer it in Spanish they have broken the law, and under that bill we can now sue them.

A Democrat can come along and sue the gentleman from Florida [Mr. DIAZ-BALART] or the gentlewoman from Florida [Ms. ROS-LEHTINEN], and it is absolutely ludicrous.

Mr. Chairman, there is no reason for this bill. It disenfranchises a lot of very good Americans, and I strongly support the Serrano amendment, and strongly do not support the final bill. I urge my colleagues: Please vote against it.

Mr. CUNNINGHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as has been mentioned for more than 200 years our Nation has been a melting pot of cultures and nationalities united by one common bond—our English language.

WHen our ancestors came to America, they came to this country knowing they had to learn English to survive.

Today, our melting pot has become a patchwork quilt of cultures, isolated because they cannot speak English. They aren't assimilating into our society like our ancestors did.

Our current bilingual policies are shredding the common bond that has made our Nation great. Today you can get a drivers license if you don't speak English. You can get forms to vote. You can apply for Social Security and welfare, all in scores of different languages. And bilingual education classes allow immigrant children to never learn English.

By making it easy for those who come to America, we have ripped the heart out of our national unity. We have shredded our common bond, leaving behind the legacy of our ancestors—new and old—who worked so hard to learn English.

Now, opponents of official English will demonize the bill. They are wrong. We want you to speak your own languages, and celebrate your cultures. But English—our common thread—must be the official language.

Mr. Chairman, my district is one of the most diverse districts in the Nation. In West Bloomfield more than 60 different ethnic groups attend schools and in Farmington, 45. Administrators, teachers, and the students themselves say making English our common language is the only way they can get along. It creates a common bond across ethnic lines that each student shares.

Testimony after testimony show that people must speak English to be successful. A quote by a Houston farmer Ernesto Ortiz says it best. "My children learn Spanish in school so they can grow up to be busboys and waiters. I teach them English at home so they can become lawyers and doctors."

English is overwhelmingly supported by the American public. A recent USA Today poll found 97 percent of Americans feel English should be the official language. And more than 23 States have laws making English official, including one signed by then Governor, now President Clinton.

Oppose these weakening amendments. Support our common bond. Help make English as our official language. Oppose the Serrano substitute.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, I thank the gentleman for yielding.

I love all the concern on this side of the aisle today for the divisiveness of this issue when it was just yesterday that this side of the aisle was not willing to make the distinction between legal residents and illegal aliens, such that they shut off 300,000 legal residents of this country from rights of their citizenship.

Today, my colleagues on the other side are talking about the divisiveness of this issue. The reason they are talking about divisiveness is because this is a divisive issue. this bill plays directly to the politics of fear and prejudice for which this Congress has become so well-known. A politics of divide and conquer.

Mr. Chairman, this is reminiscent of the Patrick Buchanan campaign to define which people are more American than the others. Or should I say which people are more white, are more white than other Americans?

This is playing politics that the Republican Party knows very well: Create an enemy to solve all our country's anxieties and fears. We saw it begin with the gay bashing. Then it proceeded to the welfare bashing. Then the last 2 days we have seen it with the welfare bashing and the immigrant bashing when they knocked off all the legal residents who were taxpaying residents of my State who can go and fight in our wars and yet they are going to be denied the rights of their citizenship based upon the bill my Republican colleagues passed yesterday.

If they do not like the way they look, if they do not like the way they sound, then they are not Americans. All I have to say to my colleagues is they should be careful with all these hot button issues that they are pushing because no one should wonder when the churches start burning in the South and the race riots start breaking out in Los Angeles where all these hot button issues have led us to, and that is fanning the flames of intolerance that this country cannot afford at this time.

Mr. CUNNINGHAM. Mr. Chairman, I yield myself 30 seconds to ask the gentleman from Rhode Island a question. Has he ever volunteered for service? Has he ever volunteered to go fight those wars himself? I thought not.

The CHAIRMAN. The House will be in order. The gentleman from Rhode Island is not under recognition. No Member has been recognized.

Does the gentleman from New York seek recognition?

Does the gentleman from Florida seek recognition?

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, I rise in support of H.R. 123 and in opposition to the Serrano amendment.

POINT OF ORDER

Mr. SERRANO. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SERRANO. My impression was that Members had risen to deal with the issue of the gentleman's comments, and I want to know if those Members have been entertained at all, or if the gentleman from Rhode Island had any opportunity to speak about a very personal statement that was made upon his life and his commitment to this country.

The CHAIRMAN. The Chair perceived that the gentleman from Rhode Island was attempting to engage the gentleman from California in debate, and not asking that his words be taken down.

Mr. SERRANO. In that case, Mr. Chairman, if that is the ruling of the Chair, is it still in order for this gentleman to ask that the gentleman's words be taken down?

The CHAIRMAN. The gentleman should have made that demand at the time. Intervening business has gone on. It is too late at this particular point.

The gentleman from Oklahoma [Mr. ISTOOK] is recognized for 2 minutes.

Mr. ISTOOK. Mr. Chairman, I rise in support of H.R. 123 and in opposition to the amendment by the gentleman from New York [Mr. SERRANO].

Frequently, I am asked what kind of name is "Istook"? People say, Is it Indian? Is it Eskimo? No, it is Hungarian. I am proud of my Hungarian ancestry.

□ 1500

My father's parents came to the United States during the first quarter of this century. They Americanized the name. Originally Istook had one "o." When they became U.S. citizens they marked the occasion, they marked the change by adding the second "o" as it has now.

They came through Ellis Island. They are a part of the immigration saga of America. And when they became U.S. citizens, they received their certificate of naturalization, which my father had framed and now displays proudly in his home.

My father grew up speaking two languages: Hungarian at home, but every place else, English. How glad I am that his parents, my grandparents, did not isolate my father by denying him the training and encouragement to focus upon English rather than focusing upon Hungarian, even though he spoke that at home.

Like so many people, I am proud of my ancestry. The part of Hungary where we came from is the Transylvania region. A lot of people do not realize it is a real place. Transylvania now is part of Romania. I get a kick out of telling people that I am literally by blood half Transylvanian. It is fun. There are lots of great things about our heritage, fun and serious.

But the important thing is, I am not hyphenated American. None of us really are. We are all American. If we believe that we are Americans, if we believe that what binds us together is what we have in common, then it must include the common language, and that common tongue is English.

Mr. SERRANO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I am troubled by the comments by my friend from California, Mr. CUNNINGHAM, about the integrity and commitment of the gentleman from Rhode Island, Mr. KENNEDY. I do not think anyone could question the commitment either of the gentleman or his family to this country.

I would simply say that I think we have to watch our words. I served, and I served with many Hispanics who did not speak English. Some of them never came back from the Vietnam war and died while speaking only Spanish. I think that the gentleman does a disservice when he questions Mr. KENNEDY.

Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Chairman, it is a very interesting debate that we are having today. The legislation we are discussing, not the amendment, but the base bill, is probably unconstitutional. All it does is prohibit a Federal official from communicating with a constituent in another language, other than English. This bill does not do anything to teach one English word to anyone or provide education in English.

The author of this bill has said this is a symbol, a symbol that will unite us together. Mr. Chairman, symbols mean different things to different people. The symbolic gesture of this bill to many Americans will symbolize intolerance, will symbolize arrogance. I ask my colleagues to support the Serrano amendment and vote against the bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in support of the bill, H.R. 123, and oppose the substitute. We are hearing a lot of nonsense, I believe, about all the terrible things this bill would affect. What does this bill really affect?

Let me tell my colleagues, it really affects official business, and official business is defined. Official business is defined as governmental actions, documents or policy which are enforceable with the full weight and authority of the Federal Government. With some examples and exceptions, that is all it is. The bill also says that we will not discourage or prevent the use of languages other than English in any nonofficial capacity.

What does nonofficial capacity mean? It means informal advice, direction, assistance, which cannot be enforced against the United States. So individual government employees can provide unofficial translations or instructions, so long as there is no cost to the government and no adv erse effect on their ability to perform their official duties.

So this bill will not affect informal, nonofficial advice, informal translations. It is not going to affect counter service at the immigration office. It is not, and I repeat, it is not anything having to do with Members of Congress because we cannot individually bind the government. We can do it as a body but not alone.

So your newsletters are safe. You can say whatever you want. Your town meetings are safe because you cannot bind the government. Your constituent letters, your radio shows are safe because you cannot bind the government. Pure and simple, only those actions which are enforceable against the government, which bind the government, are covered, nothing else.

This is just good common sense. It is what we would all expect for an official English bill. This is not English only. This is official English.

I urge approval of the bill.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Puerto Rico, Mr. CARLOS ROMERO-BARCELÓ, former Governor.

Mr. ROMERO-BARCELÓ. Mr. Chairman, we have been talking here about different things because we are opposing the bill. I do not think there is a single Member in Congress or in the Senate that opposes English as the common language of the Nation. I think everybody is in agreement with that. That is not an issue.

The bill, however, has several statements. One of them is that it forbids a government official from communicating in writing with his constituents. This is the problem. This is the real problem here.

I presented an amendment in the committee that was voted 18 to 18, so it did not pass, that would amend this bill and allow any government official to communicate with a constituent in English, either orally or in writing, if it was to make the government work more efficiently, and that was not allowed. Not only that, it was not even allowed by the Committee on Rules to be brought to the floor.

This is the purpose of this law, is to prevent public officials from communicating with their constituents in any language other than English in writing.

Now, what is the freedom of speech? Is freedom of speech only to speak in English? Can we not speak in another language? Would that be a violation? Would that be against the law? Can that be made against the law? And you are doing it because you are depriving the Federal officials from writing, communicating in writing with a constituent. I think this is absurd, to say that the freedom that is most valued in this Nation, the freedom that is most valued throughout the world, the reason why this Nation is most respected and more admired throughout the world is because of the freedom of speech. Now here in this Congress, which is supposed to protect our rights, you are trying to infringe upon those rights and affect the rights of even the government itself to communicate with the constituents to serve them better. I think this is absurd, and this law should be voted down.

Mr. CUNNINGHAM. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. KING].

Mr. KING. Mr. Chairman, I rise in support of H.R. 123 and in opposition to the amendment of my good friend, the gentleman from New York [Mr. SERRANO].

Mr. Chairman, for the first 180 years of our Nation, we were bound together by a common language. Immigrants came to this country knowing they had to learn English. They knew that they had to learn English to become part of the American mainstream. They maintained their our culture, their own identity, their own religion, their own ethnic values, their own beliefs, but they were bound together by that common language. That was the glue that created the great American stained glass window of many cultures with one language.

Twenty-five years ago we went away from this. Prior to that, I had grown up in New York City as did Mr. SERRANO. I saw the various ethnic groups come and become absorbed and learn English, become part of the American main stream. But we have gotten away from that in the past 25 years.

I was hoping today we would have an intelligent debate over why people should be voting in a foreign language. Instead we are here talking about churches being burned and gays being bashed. To me that shows the weakness of the argument on the other side. Rather than address the merits of the issue, they are resorting to name calling and ad hominem attacks. I am not talking about Mr. SERRANO, because he and I have had this debate many times. I certainly respect his views. I respect his beliefs. I respect his integrity.

But too many of the voices from the other side today have resorted to vicious name calling. To me that just undermines and underlines the basic weakness of their argument. It shows that they cannot defend their point intellectually so they have to resort to the ad hominem attacks.

I urge the adoption of this bill because I believe we do want to bring all people together. We want to stand together as one. We want to have English as our common language.

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I have one of those names that can be pronounced three different ways. I think in Italy still a fourth.

I have been moved by some of the speeches I have heard here today on both sides of the aisle. I do not come to be critical or to pound the table because I lack an argument. I did not intend to speak but I am speaking now because I thought back to the period when my immigrant grandparents came to this country in the early 1900's. Then we had an even larger percentage of people in this country who were foreign born than we do today. And we did not need the kind of legislation which has been presented to us here. I think we all understood, as we do today, that we have to learn English in order to participate fully in our society.

I thought we did the right thing in the early 1900's, allowing this melting pot that has gotten a little lumpy to actually proceed to integrate still another generation into our Nation. I do not think we need this legislation.

I am supporting the alternative being carried by Mr. SERRANO because I do not think we have lost confidence in ourselves. I hope not. I still believe that we all understand that we can integrate all of these different voices and languages into the American pattern, this crazy quilt, without the kind of legislation that is being portrayed today as our salvation.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I have been involved in a committee and I have missed part of the debate, but the part that I have heard about in this debate concerns me because I keep hearing about how this bill will cause disunity, how it will break up this country, even such illogical statements that it might cause church burnings and things of this nature. To me that flies in the face of logic.

I cannot imagine anything that would hold this country together, that would pull the different peoples of this country together any more than having a common language. The voices from the other side stand up and say, we do not need this law. We have not needed this. We have never had to do this before. So why do we need it now?

As the gentleman from New York, Mr. KING, so eloquently said, for over 180 years we all came together and we assimilated. He compared this language, this common language of English, which people learned because they had to learn it, because they had to learn it to socialize, to have business contacts, to have debate. Could you imagine this floor if we all spoke different languages trying to debate this bill? We all speak English here on this floor because that is what we all understand. But for 180 years this is what we did.

We assimilated perfectly. Mr. KING described it as the glue that held this stained glass window together. I could not think of a better description.

About 25 years ago, we started going in a different direction in this country. We started moving toward where the law required bilingual ballots and bilingual warnings in all types of things in the official government. Keep in mind here, we are talking about only official language. We are not saying you cannot speak other languages. We are saying for official language purposes of this United States, it will be English.

So for the last 25 years, we have gone through this. I submit to my colleagues that a good part of the distrust, the mistrust in this country, the division that exists today is caused by things like this. I urge my colleagues not to vote for this amendment but to support the underlying bill, H.R. 123.

□ 1515

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from New York for yielding this time to me, and I too was in a hearing in the Committee on the Judiciary, as a member of the Committee on the Judiciary, but felt moved to come and really clear the air, for there seems to be accusations that we are making ad hominem comments and accusations against those who would raise this bill as a vital bill to the national security interests.

Well, as a member of the Committee on the Judiciary, I have come to uphold the Constitution, to recognize that there is a freedom of expression, a first amendment right, that we are not threatened in our national security or any of our concerns by those who would speak a different language, but love this flag.

Just as we would not discriminate against those who do not speak another language other than English, that they can be employed across this Nation, should we not discriminate against those who started first from a land that speaks another language but still love this flag and want to have the opportunity to be American citizens.

It would seem that my colleagues on the other side of the aisle, if they were truly concerned about unity, would support the Serrano bill, as I am, for it emphasizes the commonality of our language, the importance of multilingualism, the importance of opposing the imposition of unconstitutional language policies, and it supports the views that this Nation's strength lies in our diversity.

Would my colleagues want me as a member of the Committee on the Judiciary and this Congress to deny American citizens the right to understand the Federal election ballot? This is what the bill that is on the floor does right now. It says that if individuals speak a language, English, but yet cannot read in English, and they have the opportunity and the right to vote as a citizen, they cannot have a bilingual ballot, a total elimination of provisions of the Voter Rights Act of 1965.

Mr. Chairman, this is an unconstitutional bill. Support the Serrano bill. I cannot hold to the fact that America would disgrace itself with this kind of legislation on the floor.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I rise in support of H.R. 123 and in opposition to the amendment. Those who support bilingualism in the United States of America no doubt are well motivated. They care about immigrants and they care about their fellow man, and thus they want to make it easier for them not to learn how to speak English.

Well, my colleagues are not doing anybody a favor by making it easier for them not to learn English. People all over the world are struggling to teach their children English and struggling how to learn English because they know that is the key that unlocks the door to opportunity. Those people who are making it easier for our own people, people who live in this country, not to speak English are doing them a great disservice.

I have a large number of Asians in my district, people who are American citizens who are of Asian descent. When they come to me and ask me my advice on how to make sure they can do well and their children can do well, I always advise them: "Make sure your children learn how to speak English," and I have never had one of them disagree with me.

I will tell my colleagues this much: Those people in the Hispanic community who are being led down this downward path by people who care about them are going to resent it in the end when their children do not have the opportunity of other Americans because they are locked out of the American system because they cannot speak English.

We care. We are the ones who care about every American citizen when we do not give them an easy way out, but we say, "Become part of America, we love you, we have caring in our heart. That's why you should learn to speak English and that's why we are doing you a disservice by making it easier for you to exist in our society without being able to communicate, without being able to be fully part of the economic system."

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding the time. It is hard to respond in just 2 minutes because I continue to hear people say we want these folks to learn English. We cannot have ethnic enclaves. We do not want kids to grow up only speaking a native language that is not the language of this country.

My God, have my colleagues ever seen a child on the playground who does not understand English very well and how they yearn to be able to socialize with their classmates as quickly as possible? If my colleagues have not seen it, then I urge them to come to some of the schools in Los Angeles or San Francisco or Chicago or New York or anywhere in this country, and they will see the eyes of these kids just yearning to learn, and it is not just the eyes of the children they can look at. Look at the eyes of their parents who see that success comes when they learn English. And then look at Los Angeles that has had to turn to 24-hour, round-the-clock teaching of English as a second language because there is such a backlog of people hoping to take these classes. Then go to New York City, where they have to give out lottery tickets so that they can get a space in a class to learn English, and then realize that these folks are there to learn English.

In fact, the studies show that people today are learning English at a rate that is four times as fast as people a hundred years ago were learning English. That makes sense because technology makes it easier for folks to acquire the English language.

Please do not say that folks who come to this country and have said, "I'm here legally, and I'm about to become a U.S. citizen when I qualify after 5 years," please do not tell these folks that they do not wish to learn English because our colleagues have just denigrated every reason they took to forgo their country's nationality and come to this country and make it their new place and their children's place.

These folks want to learn. Recognize that, and unfortunately this bill does not do what our colleagues say. Their intent is good. Their bill is bad. Forget about the bill. Let us live with intent. We can all agree with it. Let us all have English in this country. But this bill does not do it.

Mr. CUNNINGHAM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, this is a very important bill. Its intent is good; I agree with the gentleman, and its substance is good. We must have English as the official language. We are a great country, and the people of this country draw strength in many different roots, but we are one Nation under God. We need to have English spread throughout the land. We are not doing anyone a favor by encouraging them in essence not to learn English.

This bill will provide some added incentive, I think, to do that without being unduly punitive to anyone, but English is the language of this country, and I think it is very, very important that we act today as the House and adopt this bill and send a clear message to the country so that we can help people help themselves.

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, we are confronted with a bill which has great objectives, the learning of English and use of English as the primary language of government. It also makes the claim that national unity is promoted and that speakers of other languages will be empowered, but the vehicles used in this legislation clearly do not match the intent.

The legislation is supposed to promote English, but no funds are given for English teachers or classrooms. Instead, it restricts the behavior of elected officials and agencies, and instead of empowering non-English speakers, it disenfranchises them by taking away the opportunity to cast an informed ballot.

As an educator, I took it for granted that the best way to learn was to encourage people and not discourage them. I took it for granted that when one wanted people to feel a sense of unity, they included them and not excluded them. But this is not the approach utilized in this legislation. If we wanted to characterize this legislation in terms of a carrot and stick, it is all stick and not much carrot.

Mr. Chairman, if there is a problem with people speaking English, let us teach it to them, and let us stop this very, very bad bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, as an educator, I have long advocated that foreign languages be taught our students in kindergarten, but that does not mean they should also be taught English. They should, in kindergarten. We have made major mistakes in our language policy in the schools over the last 20 years. Some have said, "But in bilingual ballots you are simply fulfilling equal protection of the laws." That is absolute nonsense. Let us look at the situation.

Ethnic groups in this country are not limited to Chinese, not limited to Hispanics, which was the original Valeo v. Nickles case in California. In the 1970 census there were 96 mother tongues where languages other than English were primary languages in households where many of our fellow citizens were raised; 1980, 387 non-English language possibilities. In the Los Angeles-Long Beach schools there are 70 languages. We cannot pick just one or two languages if we are really going to have equal protection of the laws.

The only way to carry out the 14th amendment and its equal protection of the laws is to learn English. That is the access for all students of all backgrounds, rich and poor, when they come to this Nation, when their parents come to this Nation. Such a national policy would not stop a friend or a relative who speaks the primary language of the citizen from writing out instructions, helping them with the ballots, helping them learn English. All of that has been historically done in

this country by ethic groups from various countries, and we need to have that spread across the land. Such groups have been readily available with each immigrant wave.

What such a policy would stop is the illusion that for every language group in a nation, a government agent must be employed or some form of government assistance must be made available to aid all members who understand English less well than their native language. Presumably the naturalized citizens had to learn some English in order to receive citizenship.

Before this Nation goes the way of Quebec or engages in the bitter language quarrels of India, I recommend that we adopt the English language in this bill.

Mr. SERRANO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, as a naturalized American who has benefited from multi-language instruction, I rise in support of the amendment.

Mr. SERRANO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York [Mr. SERRANO].

Mr. Chairman, I rise in strong support of the English Plus Act, which provides a commonsense approach to the national language debate.

The English-plus substitute reaffirms that English is the primary language of the United States. It also acknowledges that in today's expanding global economy, multilingualism must be factored into any formula for economic success. Encouraging the use of world languages is critical if the United States is to remain a world economic leader.

The strength of our economy increasingly depends on trade and international business. More than 40% of large corporations in the United States hire bilingual employees to communicate, negotiate, and market American goods and services.

The English Plus Act combines two objectives. It establishes English as the primary language of our country, while at the same time recognizing the importance of multilingualism for the future success of the United States.

I urge my colleagues to stand united behind The English Plus Act, and vote for the Serrano substitute.

Mr. SERRANO. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, as my mother, an immigrant from Lithuania, learned as a young girl in East St. Louis, IL, learning English was crucial to success. She became a bilingual translator in court as a young girl, and of course today I have the honor to serve in the House of Representatives as a first-generation American and the son of that Lithuanian immigrant. Every immigrant American that I have met in my life understands one basic fact in this country. Proficiency in English is crucial to success. But this amendment is less about helping Americans, this bill is less about helping Americans to succeed, than it is about pointing out our differences in color and culture and language.

□ 1530

This bill is unnecessary and divisive. America is a nation of immigrants. We will not be stronger because of this divisive bill. Support the amendment offered by the gentleman from New York [Mr. SERRANO]. Celebrate our diversity. Welcome to those who come to our country to join in our culture, learn our language, and help them succeed.

Mr. CUNNINGHAM. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, at the outset let me say I agree with some but not all of the findings of the substitute offered by my friend, the gentleman from New York [Mr. SERRANO]. I know the gentleman is well-intentioned, but his substitute goes in the opposite direction of the bill itself.

I would again acknowledge that we are a nation of immigrants, no doubt about it. Our history has been shaped by many cultures, religions, languages from around the world. We are proud of our Nation's ability to assimilate people from around the world in one cohesive society. On that, the gentleman and I agree.

But it is our common language that binds us together as a nation, and it is the English language which empowers newcomers to the access of the American dream. First, the substitute states that English is the primary language of the United States. If that is the case, then the opponents should have no problem designating English as the official language in statute.

Second, the substitute implies that the supporters of H.R. 124 believe the Nation was founded on racial, ethnic, and religious homogeneity. Not true. We recognize the diversity in this country, and so state in the findings to H.R. 123.

Third, the substitute, H.R. 123, recognizes the importance of multilingualism in the context of international relations and national security. There are exceptions for each of those situations in the bill already.

Fourth, the substitute talks about a threat to the status of English. That is not the issue. The issue is are we going to continue down the road of a Balkanized, piecemeal language policy, program by program, with 320 languages in this country? Or are we going to establish a national, commonsense, common language policy of the Federal Government which 23 States have already established as the official policy, and over 80 nations, and the President of United States, when he was governor of Arkansas?

Fifth, the substitute mischaracterizes H.R. 123 as an English-only bill. It is not an English-only bill. It is an official language of the Government bill. If it were an English-only bill, it would apply not only to the Government but to private businesses, churches, neighborhoods, and homes. H.R. 123 does not apply to homes, churches, neighborhoods, communities, public health, safety, national security, international relations, or the teaching of languages.

My friend, the gentleman from California [Mr. BECERRA], asked me to recognize that the bill decouples bilingual education. It has nothing to do with the bilingual education issue.

I would say to my friends that the intention of this bill is to empower people, empower our American children, because there is a growing need to educate children in the English language, and the tendency has gone otherwise.

Mr. SERRANO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, if one wants to know how much people want to learn to speak English, they should come to my district in the Bronx, or anywhere else throughout the Nation, and find out what happens when an English-as-a-second-language class is offered. The line of immigrants and of recent arrivals and people who have been here for a while in front of those schools, trying to get into those programs, is something that would be hard to be believed. The biggest problem in that area is that we do not have enough slots to fit all the people who want to learn to speak English.

This is a nonissue. This should not be on the floor. But since it is, we should approve my amendment and speak about the future, not some problems we have had in the past.

PARLIAMENTARY INQUIRY

Mr. CUNNINGHAM. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CUNNINGHAM. If we wanted to accept by unanimous consent the Gutierrez amendment, which was dropped, would the gentleman agree to that?

Mr. BECERRA. Excuse me, Mr. Chairman?

Mr. CUNNINGHAM. The Gutierrez amendment that was dropped, would the gentleman agree to that, which allows Members of the House to send out their information?

Mr. SERRANO. No, we could not.

The CHAIRMAN. Under the rule, that amendment could not be considered at this time in the Committee of the Whole, even of unanimous consent.

Mr. SERRANO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I rise in the strongest possible support of the Serrano substitute.

Mr. Chairman, I strongly support the English Plus Act, the substitute offered by the esteemed gentleman from New York [Mr. SERRANO], which celebrates English as the primary language of this diverse Nation. This substitute is a far better approach than the proposed English-only bill, which in my judgment, is unconstitutional, unnecessary, unwise, inefficient, and un-American.

It is unconstitutional because it impedes freedom of speech and would ultimately lead to disenfranchising U.S. citizens. American citizens have the right to express themselves as they choose. Certainly government does not have the right to intrude on such a personal freedom, as this bill would, and I cannot condone such action. I am particularly concerned that the bill removes the requirement for multilingual ballots in communities with significant numbers of people whose primary language is not English. This is troubling both constitutionally and in a very practical sense: if there are no bilingual ballots, some citizens will no longer exercise their right to vote, but others will continue to do so, albeit in an unavoidably less-informed manner. How shortsighted can we be? Or is there a partisan political side to this issue, too?

The proposed English bill is also unnecessary. While the last census shows that there are at least 39 languages spoken in this country, it also shows that over 95 percent of the population speaks English. Only 3 percent of our citizens speak English either not well or not at all. It is clear that the English language is a major element of our American culture. English is alive and flourishing and does not need an act of Congress to continue to do so. In fact, research shows that current generations of language-minorities are learning English even faster than previous generations did.

It is also unwise, because it is divisive and mean-spirited. The proposal seeks to divide communities across ethnic lines. Rather than enhancing the development of language skills, which the United States should do to improve our economic competitiveness and to conduct diplomacy, this head-in-the-sand approach goes in exactly the wrong direction. In its zeal to achieve linguistic homogeneity, the majority runs roughshod over one of our Nation's strongest assets, our cultural diversity.

An English-only rule pertaining to governmental functions is also incredibly inefficient. Think of the many ways that citizens come into contact with the Government—at the post office, the IRS for tax forms and assistance, the Social Security Office, and the courts, to name a few. Imagine the difficulties our citizens would have if we forbid the use of other languages in government forms, instructional materials, and the like.

Last, but certainly not least, this bill is also un-American because it runs directly contrary to our international goals and foreign policies. America's entire history has been to open our door to other cultures, and to encourage strong cultural identities within our own country. This bill, in effect, says that this historical approach was incorrect. I disagree.

Rather, I agree with so many of my colleagues, including a large number on the majority side, who have urged other countries, to respect ethnic minorities inside their borders. For instance, there is strong sentiment within these walls that the Serbs who rule what is left of Yugoslavia should not run roughshod over Albanians, Muslims and other ethnic minorities who live there. Nor have we been shy about warning the government in Russia against unfair treatment of ethnic minorities within that nation's borders.

Mr. Chairman, I urge our colleagues to consider the best interests of the American people and to support the Serrano substitute, the English Plus Act. The substitute is a balanced approach that recognizes English as the primary language of the United States and encourages its usage. But, most important, it also respects the many ways in which multilingualism has contributed to this country by fostering communication and greater understanding not only within the United States, but among nations throughout the world.

I urge my colleagues to support the Serrano substitute.

Mr. SERRANO. Mr. Chairman, I yield the remainder of my time to the gentleman from Florida [Mr. DIAZ-BALART], a gentleman who is a living example of why this bill is not necessary; a gentleman who came from Cuba, learned to speak English, while maintaining his native tongue, and is an asset to this country.

The CHAIRMAN. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Chairman, I thank the gentleman from New York [Mr. SERRANO] for yielding time to me.

Mr. Chairman, it is fascinating how a vantage point affects one's view. One of the most difficult challenges that I face, that my wife and I face, with two young boys that we are raising is, for their own benefit, to do everything in our power so they will retain the Spanish language. It is extraordinarily difficult, despite the fact that they even joke with me often that every perhaps four or five words I say "Español." reminding them of the necessity, of the importance, that they keep a second tongue; for their own benefit, for their cultural enhancement and enrichment, for their economic competitiveness in the future, how important it is that they retain a second tongue.

The gentlewoman from Florida. Ms. ILEANA ROS-LEHTINEN, my dear colleague, sitting here with her young daughter, Amanda, I know she faces the same challenge. How often do I hear ILEANA with her daughters say, "Español." Why? Because in this great country, Mr. Chairman, the pressures, the incredible forces for assimilation, for acculturation, for acceptance of the primary language of English is extraordinary. I do not think it has ever been equaled in the history of mankind, that power, the power of English in this culture, which is spreading across, through Hollywood and the other instruments, that the American culture has, spreading across. And now with technology, it is spreading across the world.

To think of what is under attack in the United States, English? No. A study in our community in south Florida just showed that in the first generation here of people who are arriving on our shores, they are losing Spanish at an alarming rate, so much so that our competitiveness in south Florida is being undermined, and our ability to be effective in the international economy.

So I think it is impossible, it is really difficult to understand the viewpoint that what is threatened is not the second and third languages that we should be encouraging our children to learn in this country, for their own benefit and for our economic future, but rather, what is threatened is the English language? I am confused.

Let us not be confused, Mr. Chairman, with regard to what this bill is doing. People have often, speakers before us, have referred often, time and time again, to bill 123. What we have before us is bill 3898. It is a combination of bill 123, offered by the gentleman from California [Mr. CUNNINGHAM], which I may say, with all respect, and I want to reiterate that I not only do not impugn but would never doubt the intentions and the good faith of my dear friends who disagree with me on this issue.

But I will say that I have never seen a bill such as 123, half of the legislation before us, that seeks to do so much to address so little, because the problem before us is with regard to that legislation, that part of the bill, the invisible problem, the invisible problem, Mr. Chairman.

But there is another aspect to this legislation, which is H.R. 351, which was incorporated into 3898. And there we are not talking about a problem to address an invisible problem, an unnecessary bill. No. There we are talking about an unfortunate, unwarranted, unwise, uncalled for constitutional regression.

Our constitutional Republic, Mr. Chairman, is not perfect, but it is perfectible. After 189 years of Republic, almost 200 years after the founding of our Republic, Mr. Chairman, this Congress stood tall in 1965 and granted the right to vote to black citizens. That was 1965. Ten-years later, after passing the Voting Rights Act of 1965, the Congress extended protections to American citizens who are not proficient in English in the Voting Rights Act, and said that citizens that are not proficient in English have a right to understand what they are voting on. That was what was done through the amendments of 1975 to the Voting Rights Act.

Let it be clear that this bill before us today eliminates the protections of 1975 for linguistic minorities in the United States. This is a vote not only on the issues that have been debated before, this is a vote on destroying a

significant portion of the Voting Rights Act.

When we hear about 85 percent issues, I just want to make two points, because my friend, the distinguished gentleman from California [Mr. CUNNINGHAM] made the point previously about the fact this is an 85-percent issue. I would say perhaps it is an 85-percent issue to declare English as the official language, such as was done in Florida. That would not have been half as controversial, by the way, declaring English as the official language. But that is not what we are doing. We are putting a bunch of restrictions.

I want to say, if I may, even if it were an 85-percent issue, Democracy not only requires governing by the majority, but it is respect for the minority. I say that that portion, the Voting Rights Act portion of this legislation, which constitutes aggression on linguistic minorities in this country, is anti-Democratic, anti-Democratic, and it constitutes congressional regression. That is why I oppose it.

Mr. CUNNINGHAM. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the Speaker of the House.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] is recognized for 5½ minutes.

Mr. GINGRICH. Mr. Chairman, I thank the gentleman from California for yielding time to me.

Mr. Chairman, I think we are at a very important turning point for America. This is a country whose doors have always been open, and should always be open to people from across the world. We are a nation of immigrants. Our greatness in part comes from our ability to be a melting pot, to draw from everywhere and to allow people to pursue happiness, to allow people to live under the rule of law, to protect their unalienable rights, and to have everyone be equal before the law.

This is a truly remarkable civilization. I agree with Max Lerner's great work on America as a civilization, that we are in fact a unique civilization, partially derived from Europe, partially derived from Africa, partially derived from America, partially derived from Asia, but ultimately, a unique tribute to the concept that we have been endowed by our Creator, and that we represent the greatest extension of freedom to the widest range of people in the history of the world.

But there is a key part of that, and this bill is one step in that direction. The key part is very simple: Is there a thing we call American? Is is unique?

□ 1545

My Ph.D. is in European history. I believe in studying other countries. I believe in learning other languages. But I believe we start here with America, and we need to learn here about America.

I want to say unequivocally that while I cherish every person who comes from anywhere, who comes here legally and seeks to pursue happiness, and I hope all of them decide to stay and become American citizens, but I want them to become American. And part of becoming American involves English. It is vital historically to assert and establish that English is the common language at the heart of our civilization.

One does not have to look far to see the dangers. Look north to our friends in Canada and the challenge of separatism in Quebec. Look to the Balkans, look to the continuing tensions in Belgium, a country which has mostly avoided violence and has mostly done a good job but has a very complex and very structure relationship between its Fleming and Walloon populations. Then ask yourself, in an America where their are over 80 languages taught in the California schools as the primary language, not as the secondary language but as the primary language, in a country where in Seattle there are 75 languages being taught, in Chicago there are 100; this is not bilingualism, this is a level of confusion which if it were allowed to develop for another 20 or 30 years would literally lead, I think, to the decay of the core parts of our civilization.

This bill is a very modest bill. It says English is the official language of the Government. The Government. You can speak any language you want in your homes, you can speak any language you want in private life, you can campaign in any language you want, but all Americans should have access to their government in their common language.

It says the Government has an affirmative obligation to preserve and enhance the role of English as the official language of the U.S. Government, and that such obligations shall include encouraging greater opportunities to learn the English language. I believe it is important to understand that we need every citizen and, frankly, in the long run every person who comes here to learn English. We need to be willing to say it proudly and simply and not with hostility but with a sense of joy: Yes, we want you to come; yes, we want you to immigrate; and, yes, we want you to become American, but there are standards.

For me one of those standards occurred with the naturalization ceremony. Naturalization ceremonies normally involve people of many countries with many language backgrounds, and part of the great joy of seeing them stand there and, in whatever quality of English they have mastered, repeating in English their Pledge of Allegiance, indicating in English their new commonality. They may come from Thailand, from Nigeria, from Paraguay, but when they are in that room becoming American, they are joined together by their Pledge of Allegiance and they are joined together by their new common language.

They leave that room as Americans, not hyphenated Americans, not partial Americans, not semi-Americans. At that moment they are citizens of the United States, under the protection of our law, living within our Constitution, and their rights have been endowed by their Creator. That is the framework this bill seeks to continue.

This bill is a very simple bill, a very modest bill. I would urge Members to vote no for the substitute, which, frankly eliminates any effective steps, and vote yes on final passage. The Bill Emerson English Language Empowerment Act is the right direction and the right bill, and the additions from the Committee on the Judiciary are very helpful. These are modest steps in the direction of reinforcing and reasserting the greatest civilization ever to provide freedom to the human race.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. SERRANO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SERRANO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 250, not voting 6, as follows:

[Roll No. 389]

AYES—178

Abercrombie	Dixon	Johnston
Ackerman	Doggett	Kanjorski
Andrews	Dooley	Kaptur
Baldacci	Doyle	Kennedy (MA)
Barcia	Durbin	Kennedy (RI)
Barrett (WI)	Edwards	Kennelly
Becerra	Engel	Kildee
Beilenson	Eshoo	Kleczka
Bentsen	Evans	Klink
Berman	Farr	LaFalce
Bishop	Fattah	Lantos
Blumenauer	Fazio	Levin
Bonior	Fields (LA)	Lewis (GA)
Borski	Filner	Lofgren
Boucher	Flake	Lowey
Brown (CA)	Foglietta	Luther
Brown (FL)	Frank (MA)	Maloney
Brown (OH)	Frost	Markey
Bryant (TX)	Furse	Martinez
Bunn	Gejdenson	Mascara
Cardin	Gephardt	Matsui
Chapman	Geren	McCarthy
Clay	Gibbons	McDermott
Clayton	Gonzalez	McHale
Clyburn	Gordon	McKinney
Coleman	Green (TX)	Meehan
Collins (IL)	Gutierrez	Meek
Collins (MI)	Hall (OH)	Menendez
Condit	Harman	Millender-McDonald
Conyers	Hastings (FL)	Miller (CA)
Costello	Hefner	Minge
Coyne	Hilliard	Mink
Cummings	Hinchey	Moakley
de la Garza	Holden	Mollohan
DeFazio	Hoyer	Moran
DeLauro	Jackson (IL)	Morella
Dellums	Jackson-Lee (TX)	Murtha
Deutsch	Jacobs	Nadler
Diaz-Balart	Jefferson	Neal
Dicks	Johnson, E. B.	Oberstar
Dingell		

Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Skeen
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—250

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—6

Brownback
Ford
McDade
Obey
Peterson (FL)
Young (FL)

□ 1607

Messrs. EWING, LIGHTFOOT, LEWIS of California, EVERETT, HOSTETTLER, HEFLEY, and BEVILL changed their vote from "aye" to "no."

Mr. MARKEY changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NEY) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 123) to amend title 4, United States Code, to declare English as the official language of the Government of the United States, pursuant to House Resolution 499, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SERRANO

Mr. SERRANO. Mr. Speaker, I offer a motion to recommit.

The CHAIRMAN. Is the gentleman opposed to the bill?

Mr. SERRANO. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SERRANO moves that the House recommit the bill to the Committee on Economic and Educational Opportunities with instructions to report the bill forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "English Plus Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) English is the language of the United States, and all members of the society recognize the importance of English to national life and individual accomplishment.

(2) Many residents of the United States speak native languages other than English, including many languages indigenous to this country, and these linguistic resources need to be conserved and developed.

(3) This Nation was founded on a commitment to democratic principles, and not on racial, ethnic, or religious homogeneity, and has drawn strength from a diversity of languages and cultures and from a respect for individual liberties.

(4) Multilingualism, or the ability to speak languages in addition to English, is a tremendous resource to the United States because such ability enhances American competitiveness in global markets by permitting improved communication and cross-cultural understanding between producers and suppliers, vendors and clients, and retailers and consumers.

(5) Multilingualism improves United States diplomatic efforts by fostering enhanced communication and greater understanding between nations.

(6) Multilingualism has historically been an essential element of national security, including the use of Native American languages in the development of coded communications during World War II, the Korean War, and the Vietnam War.

(7) Multilingualism promotes greater cross-cultural understanding between different racial and ethnic groups in the United States.

(8) There is no threat to the status of English in the United States, a language that is spoken by 97 percent of United States residents, according to the 1990 United States Census.

(9) "English-only" measures would violate traditions of cultural pluralism, divide communities along ethnic lines, jeopardize the provision of law enforcement, public health, education, and other vital services to those whose English is limited, impair government efficiency, and undercut the national interest by hindering the development of language skills needed to enhance international competitiveness and conduct diplomacy.

(10) Such "English-only" measures would represent an unwarranted Federal regulation of self-expression, abrogate constitutional rights to freedom of expression and equal protection of the laws, violate international human rights treaties to which the United States is a signatory, and contradict the spirit of the 1923 Supreme Court case Meyer v. Nebraska, wherein the Court declared that "The protection of the Constitution extends to all; to those who speak other languages as well as to those born with English on the tongue.".

SEC. 3. GOVERNMENT POLICIES

The United States Government should pursue policies that promote English as the language of the United States and that—

(1) encourage all residents of this country to become fully proficient in English by expanding educational opportunities and informational resources;

(2) conserve and develop the Nation's linguistic resources by encouraging all residents of this country to learn or maintain skills in a language other then English;

(3) respect the languages of Native Americans, Native Alaskans, Native Hawaiians, and other peoples indigenous to the United States and its territories;

(4) continue to provide services in languages other than English as needed to facilitate access to essential functions of government, promote public health and safety, ensure due process, promote equal educational opportunity, and protect fundamental rights;

(5) recognize the importance of multilingualism to vital American interests and individual rights, and oppose restrictionist language measures; and

(6) require Presidential campaigns and Federal Elections be conducted in English.

□ 1615

Mr. CUNNINGHAM (during the reading). Mr. Speaker I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. NEY). Is there objection to the request of the gentleman from California?

Mr. BONIOR. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the motion to recommit.

The SPEAKER pro tempore. The gentleman from New York [Mr. SERRANO] is recognized for 5 minutes in support of his motion to recommit.

Mr. SERRANO. Mr. Speaker, the debate today has been at times painful for some of us because, as was stated on the floor on many occasions, this debate takes what is really a nonissue, this fear that somehow the English language is going to be lost to all of us as our common bond, and puts it on the floor of this House as one of those issues that questions people's patriotism.

So, of course, if we go throughout this country and tell people that somehow the American flag is in danger of being burned, people react in a certain way to that against burning of flags. If we tell them that the only way we are going to save our schools is by praying in school, people will react to that in a positive way. If we tell them that because other languages are spoken in this country at any given time, and recent times, that the English language is in danger of disappearing, therefore, the country is in danger of disappearing as the country that we know.

But the fact of life is that some people much brighter than I, than many of us, somewhere interestingly enough in my city on Madison Avenue in an advertising agency decided that this is one of those hot button issues that touches people, confuses them, and gives them what they think is a solution to their problems.

That does not talk about poverty in America. It does not talk about the working middle-class struggling to pay a mortgage and send their children to school. It does not talk about taxes. It does not talk about the environment. It does not speak to any of the real issues in this country. It says that because I and other people speak another language and relate to constituents in a language other than English, that somehow we are in danger.

That is a misguided, foolishly patriotic approach to a nonissue, but it has worked. Up to now it has worked. People have reacted to it. People who have been members of the Armed Forces, who are in late years, honestly and emotionally believe that if we allow other languages to live side by side with the English language, or in a second category to English, that somehow we are going to lose our country.

On many of these issues, my brothers and sisters, I place myself as an example. I think in two languages. I write and read Spanish and English. I can deliver this presentation in Spanish as well as in English. I do not think that any of what I do in two languages has ever been a problem for me or a problem for this country.

When I served in the Armed Forces of this country during the Vietnam war, I served with young men who could not speak a word of English who had just arrived here and were drafted or who came from Puerto Rico to serve. Many were volunteers. Many of those young men never came back. They were lost in the battlefields of Vietnam, as they were in Korea and the Second World War and the First World War, and their last words were in Spanish to their God, to their parents. They never spoke English.

Yet, Mr. Speaker, this bill says that if the Veterans Administration wants to service them, it cannot service them in a language other than English. It says that I cannot communicate with them in a language other than English. It says that if the Ambassador of Mexico or the new President of the Dominican Republic writes to me in Spanish, I can only answer on the public payroll in English. This is the way to promote ourselves throughout the world?

My recommittal amendment, proposal says two things: That we recognize that English is the language of this country, and that we ask government and its citizens to involve themselves in learning to speak it better every day.

Then it says something else which I think is important. It says that if someone is a candidate for President and receives Federal matching funds, especially if they are going out there and saying that English should be the official language, that they should not use any public funds to advertise in a language other than English.

I have written to one of the Presidential candidates who has seven Spanish commercials in the can to go in Texas and in California and New York pretty soon. As the insurgent, I have written to him twice and asked him to respond and he has not responded.

But in fact, in fact, all Presidential candidates have done that. I think that we would be taking a proper stand if we say, since election campaigning with Federal dollars is an act of government, and since English will be the official language of government, then do not go around saying, "Vote para mi in estos elecciones." Say it in English and run the risk of losing New York, Florida, California, New Mexico, Arizona, and Texas.

Mr. Speaker, let me just close by saying when Hispanics sit around the dinner table and the issue of language comes up, it is never an assault on the English language. It is a lament on the fact that the children and the grandchildren no longer speak Spanish. This is a nonissue.

The SPEAKER pro tempore. Is the gentleman from California [Mr. CUNNINGHAM] opposed to the motion?

Mr. CUNNINGHAM. Mr. Speaker, yes, I am opposed to the motion.

The SPEAKER pro tempore. The gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, there are people on both sides of the issue that believe strongly that they are in the right on this thing. First of all, the gentleman from New York [Mr. SERRANO], my friend, is a good example of a bilingual citizen, but unfortunately in this land many are not, and that is what we are trying to help.

I would also like to thank my friend for his service to this country in Vietnam, and I recognize that and I laud that.

I also thank my friend for being my friend, and he knows I mean that sincerely. We are friends with a difference of opinion on this issue.

Mr. Speaker, I would say, first of all, that some of the amendments that the gentleman was talking about were actually made in order were withdrawn, and we asked to accept them and they would not accept their own amendments back.

Mr. Speaker, I would say that this is a version of the same vote that we just had and it still goes in the wrong direction. It does nothing to address the piecemeal language approach of the past and it encourages a continued policy of printing documents in many languages.

I would like to state, first of all, and I have got four pages here of people that support it, and I would like to mention a few: The AARP, the American Association of Women, the American Legion, California NEA, Daughters of the American Revolution, Federation of Women's Clubs, Heritage Foundation, Islamic Society of North County, and many, many others.

But let me tell my colleagues more about what is good about this bill.

First of all, Bill Emerson created this bill, worked with the gentleman from Wisconsin [Mr. ROTH], and there was not a mean bone in Mr. Emerson's body. It has over 200 cosponsors on this. I think they are a very well-meaning group of people who believe in this bill and what it stands for.

□ 1630

Yes, over 80 percent of the American people support it. I do not think they are mean spirited. They see a problem that we can help with. The English language unites us as a nation of many different immigrants and, just like the Speaker said, at the swearing in, you see people from all over the world united when they are sworn in under the English language. That is in the bill.

We are better able to move about and interact within our society itself. With 123 languages spoken in the United States, we need to declare English as the official language.

Let me close with a quotation from one of our witnesses, Maria Lopez-Otin:

From the immigrant's standpoint, knowledge of English is critically important to success in American society, and discussions about immigration, bilingual education or English as a second language are but distractions from the issue at hand, the merits of English as the official language of the United States. And on that point, on whatever level you consider, education, employment, politics, a social grounding in English is imperative. Now, does this mean rejection of our roots, our heritage, our original language? Of course not. What it means is that as Americans, we cannot hope to reach our fullest potential unless we speak the language, and that language is English.

The SPEAKER pro tempore (Mr. NEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. SERRANO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 171, noes 257, not voting 5, as follows:

[Roll No. 390]

AYES—171

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Blumenauer
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cummings
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—257

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—5

Brownback
Ford
McDade
Peterson (FL)
Young (FL)

□ 1648

Mr. MINGE and Mr. SCHIFF changed their vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. NEY). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. CUNNINGHAM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 169, not voting 5, as follows:

[Roll No. 391]

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Brewster
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer

Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOES—169

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Blumenauer
Bonilla
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cummings
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Skeen
Slaughter
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—5

Brownback
Ford
McDade
Peterson (FL)
Young (FL)

□ 1657

Mr. JACKSON of Illinois changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1700

GENERAL LEAVE

Mr. CUNNINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

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

There was no objection.

FEDERAL EMPLOYEE REPRESENTATION IMPROVEMENT ACT OF 1996

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 782) to amend title 18 of the United States Code to allow members of employee associations to represent their views before the U.S. Government, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Representation Improvement Act of 1996".

SEC. 2. REPRESENTATION BY FEDERAL OFFICERS AND EMPLOYEES.

(a) EXTENSION OF EXEMPTION TO PROHIBITION.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

"(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

"(A) any person who is the subject of disciplinary, loyalty, or personnel administration proceedings in connection with those proceedings; or

"(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or groups's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

"(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

"(A) is a claim under subsection (a)(1) or (b)(1);

"(B) is a judicial or administrative proceeding where the organization or group is a party; or

"(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.".

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code is amended by adding at the end the following:

"(i) Nothing in this section prevents an employee from acting pursuant to—

"(1) chapter 71 of title 5;

"(2) section 1004 or Chapter 12 of title 39;

"(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

"(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

"(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.".

Mr. CANADY of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. NEY). Is there objection to the original request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentlemen from Florida?

Mr. FRANK of Massachusetts. Reserving the right to object, Mr. Speaker, I would just note that this is legislation correcting a matter involving employee rights that has been fully agreed to and has gone through the House previously without objection, and I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

J. PHIL CAMPBELL SENIOR NATURAL RESOURCE CONSERVATION CENTER

Mr. ALLARD. Mr. Speaker, I call up the bill (H.R. 3387) to designate the Southern Piedmont Conservation Research Center located at 1420 Experimental Station Road in Watkinsville, GA, as the J. Phil Campbell, Senior Natural Resource Conservation Center and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. STENHOLM. Reserving the right to object, Mr. Speaker, although I do not intend to object, I yield to the gentleman from Colorado Mr. Allard for an explanation of H.R. 3387.

Mr. ALLARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, H.R. 3387 is a noncontroversial bill sponsored by Congressman CHARLIE NORWOOD. H.R. 3387 renames the Southern Piedmont Conservation Research Center located in Watkinsville, GA, as the J. Phil Campbell, Sr. Natural Resource Conservation Center. The bill memorializes Mr. Campbell, an FDR appointee, for his leading role in locating the Center in Watkinsville and for maintaining funding for the center.

H.R. 3387 was approved by a voice vote in the Subcommittee on Resource Conservation, Research, and Forestry and in the full Committee on Agriculture on May 30 and June 19, respectively. Moreover, Secretary Glickman has provided Chairman ROBERTS with a letter, dated June 19, which states that the Department has no objections to H.R. 3387, and which further acknowledges Mr. Campbell's profound contributions to American agriculture.

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

Mr. STENHOLM. I yield to the gentleman from Georgia.

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

Mr. Speaker, I rise today in support of H.R. 3387, a bill to rename the Southern Piedmont Conservation Research Center in Watkinsville, GA as the J. Phil Campbell, Senior Natural Resource Conservation Center.

J. Phil Campbell, Senior lived on this Earth for 66 years, but in that time, he gave more to the men and women of this country that can be measured. His contributions to agriculture, not only in the Southeast, but throughout the Nation, are well known and widely recognized. Mr. LINDER and I introduced this legislation to, in a small way, give Mr. Campbell the recognition he most certain deserves.

James Philander Campbell was born in Dallas, GA, just northeast of Atlanta, on March 2, 1878. He grew up on a farm and, at the age of 17, began teaching school. At a young age, J. Phil Campbell, Senior fought for and helped to secure legislation providing for teaching agriculture in rural Georgia schools. In 1907, he spent 6 months traveling throughout the State advocating for the creation of district agriculture schools and a State college of agriculture. All of this was done before he turned 30 years of age.

Between 1908 and 1910, J. Phil Campbell, Senior served as the first farmer extension supervisor to the Southeast region. This was done before passage of the Smith-Lever Act in 1915, which created a Federal extension service.

In 1910, he began a career as the Georgia State agent for the U.S. Department of Agriculture. He also served on the Georgia State University's College of Agriculture staff. During his tenure, he organized nearly 13,000 Georgia children in "corn" and "canning clubs." He also helped organize 5,000 Georgia farmers into farming demonstration work. These efforts were done under the supervision of Dr. Seaman Knapp of the U.S. Department of Agriculture.

During this time, he also served as the Director of Extension Work in Agriculture and Home Economics. In 1933, he took a leave of absence to assist the Federal Agriculture Adjustment Administration in their cotton belt crop replenishment division. After 1935, he was elevated to a Federal position in the Roosevelt administration as assistant chief of the Soil Conservation Service in the USDA. He served in that capacity until he died in December of 1994.

In addition to his clear record of accomplishment in the area of education, J. Phil Campbell, Senior was also extremely interested in agricultural research and maintained close ties with Georgia's agriculture experiment stations. He was integral in the creation of the Southern Piedmont Conservation Research Center. He chose its siting in Watkinsville, just outside of Athens and the University of Georgia. When funding for the center was threatened in its first year, Phil Campbell fought to keep the center open and secure its line of funding. It exists to this day on Experimental Station Road in Watkinsville.

I introduced H.R. 3387 as a small token of recognition and gratitude for Mr. Campbell's contributions to agriculture and the communities and Nation he loved. Fortunately, Mr. Campbell's contributions to agriculture are not being recognized after his death only. In the mid-1930's, Dean Paul Chapman, the first dean of the University of Georgia's College of agriculture, stated, "J. Phil Campbell and I were pioneers in promoting professional agricultural work and in the establishing of agencies to carry on such work. With little professional training ourselves, we were plowing new ground to create such training." Later, in a ceremony honoring Mr. Campbell after he departed for Washington, Dean Chapman stated that no one had as many friends in Georgia as did J. Phil Campbell. Mr. Campbell was also recognized in the "Who's Who in America" collection in the 1940's. Clearly, given his contributions to agriculture in the State of Georgia and throughout he Nation, Mr. Campbell had more friends than he could have ever known.

Mr. Speaker, I am honored to offer this legislation. In a letter from the USDA, Secretary of Agriculture Dan Glickman stated that, while the USDA generally discourages the naming of its laboratories after any one individual, given the Department's admiration and appreciation of, "the great service Mr. Campbell has rendered to agriculture and the Nation, the USDA has no objection to the enactment of H.R. 3387."

We have also received assurances from the CBO that enactment of H.R. 3387 will result in no significant cost to the Federal Government and does not include any inter-governmental or private sector mandates.

Given this, Mr. Speaker, I urge my colleagues to join with me to recognize Mr. Campbell's many contributions and support this legislation.

With that, I thank the gentleman from Texas for yielding.

Mr. STENHOLM. Mr. Speaker, continuing my reservation of objection, I thank my colleague for his explanation of the legislation.

I rise in support of H.R. 3387, and wanted to thank my colleagues from Georgia for their work on this effort. Mr. Campbell was certainly a driving force in their home State, as well as in a number of areas in agriculture, including Extension Service and research activities, in addition to serving as assistant chief of the Soil Conservation Service here in Washington during Franklin Roosevelt's administration. Therefore, it is appropriate that the agriculture research facility in Watkinsville that works on issues involving our natural resources be named after him.

Again, I thank our colleagues, the gentlemen from Georgia, Mr. NORWOOD and Mr. LINDER, for introducing this legislation, and I urge its passage by the House.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 3387

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

SECTION 1. DESIGNATION OF J. PHIL CAMPBELL, SENIOR NATURAL RESOURCE CONSERVATION CENTER.

The Southern Piedmont Conservation Research Center located at 1420 Experimental Station Road in Watkinsville, Georgia, shall be known and designated as the "J. Phil Campbell, Senior Natural Resource Conservation Center".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "J. Phil Campbell, Senior Natural Resource Conservation Center".

The bill was ordered to be engrossed and read a third time, was read the third time, was passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3387, the bill just considered.

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

There was no objection.

RELEASE OF REVERSIONARY INTEREST HELD BY UNITED STATES IN CERTAIN PROPERTY IN THE COUNTY OF IOSCO, MICHIGAN

Mr. ALLARD. Mr. Speaker, I call up the bill (H.R. 2670) to provide for the release of the reversionary interest held by the United States in certain property located in the county of Iosco, MI, and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is these objection to the request of the gentleman from Colorado?

Mr. STENHOLM. Reserving the right to object, Mr. Speaker, I will not object, but yield to my colleague, the gentleman from Colorado [Mr. ALLARD], for an explanation of the bill.

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

Mr. Speaker, H.R. 2670, sponsored by Congressman JAMES BARCIA, provides for the release of a reversionary interest held by the Forest Service in 1.9 acres of land in Iosco County, MI. The land belongs to the local airport but, due to a survey error, has been in private use. Authorities have agreed with the squatter to swap the property being used in exchange for another parcel of equal value. But, the reversionary interest on the 1.9 acres clouds the title and prevents the exchange. This reversionary interest says that when the land is not longer used for airport purposes, it reverts back to the Forest Service. The bill, as amended in subcommittee, provides that, in exchange for adequate consideration, the reversionary interests is relinquished.

H.R. 2670 is a noncontroversial bill which was approved by a voice vote in both the subcommittee and full committee on May 30 and June 19, respectively, and enjoys the support of the Department of Agriculture.

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

Mr. STENHOLM. Further reserving the right to object, I yield to the gentleman from Michigan.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 2670, a bill I sponsored, to provide for the release of reversionary interests held by the United States in certain property located in Iosco County, MI.

I want to thank the chairman of the Subcommittee on Resource Conservation, Research and Forestry, chaired by the gentleman from Colorado [Mr. ALLARD], and its ranking member, the gentleman from South Dakota [Mr. JOHNSON], for their willingness to help move this issue toward resolution.

In 1960 land was provided to Iosco County for the construction of an airport. This land was provided through the Secretary of Agriculture under the authority of section 16 of the Federal Airport Act of 1946, and in conformity with Executive Order 10536 of June 9, 1954.

Using survey lines that had been drawn at the time, one of my constituents, Mr. Otto Peppel, constructed a cabin on land based upon the old survey that he believed to be his own. A conflict in the lines of occupation with the legal boundary lines was discovered in a 1976 survey performed for airport expansion, showing that 1.9 acres that Mr. Peppel believed to be his were in fact the airport's. Efforts to eliminate the title conflict have been going on since that time, culminating in the request to me to introduce legislation to allow for the dismissal of the reverter clause in this property.

Local authorities and Mr. Peppel have agreed to exchange a like amount of property so that the title can be cleared. However, given that the land was given to the county by the Secretary of Agriculture for public purposes, a reverter clause exists that must be quieted in order to clear the title.

In consultation with local staff of the U.S. Forest Service, this bill was drafted to allow for the clearance of this title. In further consultation with the Department of Agriculture and the House Agriculture Committee, the bill was amended with the agreement of all parties to provide that the reversionary interest of the United States is not lost, but rather is restored on another piece of property of equal value.

Given the support for the land swap from the property owners, local officials, and the Forest Service, this matter should be noncontroversial. I urge its adoption.

Mr. STENHOLM. Mr. Speaker, further reserving the right to object, I thank my colleague for his explanation.

An amendment adopted by the committee will be offered to provide for compensation to the Forest Service for its release of a reversionary interest it holds in land affected by the proposed exchange.

Mr. Speaker, I support the bill with the committee amendment, and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 2670

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

SECTION 1. RELEASE OF REVERSIONARY INTEREST REGARDING CERTAIN PROPERTY IN IOSCO COUNTY, MICHIGAN.

(a) RELEASE REQUIRED.—The Secretary of Agriculture shall release, without consideration, the reversionary interest of the United States in the parcel of real property described in subsection (b), which was retained by the United States when the property was conveyed to the County of Iosco, Michigan, in 1960 pursuant to a deed recorded at Liber 144, beginning page 58, in the land records of the County.

(b) DESCRIPTION OF PROPERTY.—The parcel of real property referred to in subsection (a) consists of 1.92 acres in the County of Iosco, Michigan, and is described as follows:

That part of the N.W. ¼ of the S.E. ¼ of Section 11, T.22 N.R. 8 East, Baldwin Township, Iosco County, Michigan described as follows: Commencing at the Center of said Section 11, thence South 89 degrees, 15′ 41″ East, along the East-West ¼ Line of said Section 11, 102.0 feet, thence South 00 degrees 08′ 07″ East, along an existing fence line, 972.56 feet, thence North 89 degrees 07′ 13″ W. 69.70 feet to a point in the North-South ¼ Line, thence North 02 degrees 02′ 12″ West, along said North-South ¼ Line, 973.42 feet to the Point of Beginning.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office of offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment is the nature of a substitute: Strike out all after the enacting clause and insert:

SECTION 1. RELEASE OF REVERSIONARY INTEREST REGARDING CERTAIN PROPERTY IN IOSCO COUNTY, MICHIGAN.

(a) RELEASE REQUIRED.—The Secretary of Agriculture shall release the reversionary interest of the United States in the parcel of

real property described in subsection (b), which was retained by the United States when the property was conveyed to the County of Iosco, Michigan, in 1960 pursuant to a deed recorded at Liber 144, beginning page 58, in the lands records of the County.

(b) DESCRIPTION OF PROPERTY.—The parcel of real property referred to in subsection (a) consists of 1.92 acres in the County of Iosco, Michigan, and is described as follows:

That part of the N.W. ¼ of the S.E. ¼ of Section 11, T.22 N.R. 8 East., Baldwin Township, Iosco County, Michigan described as follows: Commencing at the Center of said Section 11, thence South 89 degrees, 15′ 41″ East, along the East-West ¼ Line of said Section 11, 102.0 feet, thence South 00 degrees 08′ 07″ East, along an existing fence line, 972.56 feet, thence North 89 degrees 07′ 13″ W. 69.70 feet to a point in the North-South ¼ Line, thence North 02 degrees 02′ 12″ West, along said North-South ¼ Line, 973.42 feet to the Point of Beginning.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office of offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

Mr. ALLARD (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2670, the bill just considered.

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

There was no objection.

MAKING MINOR ADJUSTMENT IN EXTERIOR BOUNDARY OF DEVIL'S BACKBONE WILDERNESS IN MARK TWAIN NATIONAL FOREST, MO.

Mr. ALLARD. Mr. Speaker, I call up the bill (H.R. 3464) to make a minor adjustment in the exterior boundary of the Devil's Backbone Wilderness in the Mark Twain National Forest, MO, to exclude a small parcel of land containing improvements, and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. STENHOLM. Reserving the right to object, Mr. Speaker, I will not object, but I yield to my colleague, the gentleman from Colorado [Mr. ALLARD], for an explanation of the bill.

Mr. ALLARD. Mr. Speaker, I thank the gentleman from Texas for yielding to me.

Mr. Speaker, H.R. 3464, sponsored by Congressman MEL HANCOCK, provides for a slight adjustment removing 2 acres from Devil's Backbone Wilderness area within the Mark Twain National Forest. This is necessary to allow for a land exchange between the Forest Service and a family which inadvertently made improvements on a parcel of Forest Service/Wilderness land. Once removed from Wilderness designation, the Small Tracts Act will permit an administrative exchange of land.

This bill was approved by a voice vote in both the subcommittee and full committee, and the Department of Agriculture has recommended its approval.

Mr. STENHOLM. Further reserving the right to object, Mr. Speaker, I thank my colleague for his explanation.

An amendment adopted by the committee will be offered to incorporate a technical change in the bill recommended by the Forest Service.

Mr. Speaker, I have no objection to the bill as amended by the committee, and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 3464

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

SECTION 1. BOUNDARY ADJUSTMENT, DEVILS BACKBONE WILDERNESS, MARK TWAIN NATIONAL FOREST, MISSOURI

Using the authority provided in section 202 of Public Law 96-560 (94 Stat. 3274) regarding the correction of clerical errors in the maps and legal descriptions of the Devils Backbone Wilderness established by section 201(d) of such Act (16 U.S.C. 1132 note), the Secretary of Agriculture shall adjust the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a parcel of real property that consists of approximately a quarter of an acre in Douglas County, Missouri, contains a garage, well, mailbox, driveway, and other improvements, and was inadvertently removed from administration as National Forest System land and included within the wilderness area.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: strike out all after the enacting clause and insert:

SECTION 1. BOUNDARY ADJUSTMENT, DEVILS BACKBONE WILDERNESS, MARK TWAIN NATIONAL FOREST, MISSOURI.

The boundary of the Devils Backbone Wilderness established by section 201(d) of Public Law 96-560 (16 U.S.C. 1132 note) in the Mark Twain National Forest, Missouri, is hereby modified to exclude from the area encompassed by the Devils Backbone Wilderness a parcel of real property consisting of approximately two acres in Ozark County, Missouri, and containing a garage, well, mailbox, driveway, and other improvements, as depicted on a map entitled "Devils Backbone Wilderness Boundary Modification", dated June 1996. The map shall be retained with other Forest Service maps and legal descriptions regarding the Devils Backbone Wilderness and shall be made available for public inspection as provided in section 202 of Public Law 96-560 (94 Stat. 3274).

Mr. ALLARD (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3464.

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

There was no objection.

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO SAME DAY CONSIDERATION OF A CERTAIN RESOLUTION

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 500 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 500

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to a resolution reported before August 2, 1996, providing for consideration or disposition of a conference report to accompany the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health

insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term services and coverage, to simplify the administration of health insurance, and for other purposes.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. For purposes of debate only, Mr. Speaker, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of

Mr. GOSS. Mr. Speaker, House Resolution 500 is a straightforward expedited procedures rule—agreed to by the minority members of our Rules Committee—designed to allow for prompt consideration later today of the conference report on H.R. 3103, the Health Insurance Portability and Accountability Act of 1996.

This rule waives the requirement of clause 4(b) of Rule XI regarding same-day consideration of a resolution reported from the Committee on Rules. That requirement, which provides that two-thirds of the House must agree to such a resolution, is generally observed to provide Members time to digest the legislation under consideration. I share the interest of our minority in ensuring that we do not waive that requirement often—or lightly.

However, in this case, we are under serious time constraints to complete our work on an extremely important measure, which has had significant debate and public airing over the many months it has been under consideration in both Houses of Congress and the conference committee. In fact, every major portion of this bill, every painstaking step in the negotiation has, I believe, been thoroughly reported by the media, given the enormous public interest in this subject. I think Members should agree that, since there is finally bipartisan agreement about the provisions of this bill, we should not delay in approving it and getting it onto the President's desk for his signature.

Mr. Speaker, last night a milestone was achieved on behalf of the American people. An agreement was reached on legislation to improve the availability and portability of health care insurance. This legislation resolves problems of job-lock, denial of coverage, lack of choice, fraud and abuse—addressing the fundamental concerns of millions of Americans. We struggled for many, many months with this bill—and at times it seemed like some were willing to risk never getting it done in order to make political points. That would have been a tragedy for all of us. But in the end, the deafening call from the people we represent to tackle the most obvious problems with health insurance availability and accountability was heeded.

Mr. Speaker, during the upcoming debate members will discuss the details of the agreement and explain how it will expand health coverage, broaden choice, and reduce anxiety for countless Americans. This rule allows that critical discussion to proceed.

Mr. Speaker, I urge my colleagues to support this rule, and I reserve the balance of my time.

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

Mr. Speaker, this rule waives the two-thirds' vote requirement, as we have heard, for the same-day consideration of the rule on the health care conference report. The rule is necessary because the conference report was not available yesterday when the House completed legislative business.

□ 1715

This is not obviously the best way to consider important legislation. Conference reports should lay over for a few days, certainly two or three if possible so that people can read them and understand what they are voting on, but we do, of course, understand the need for this kind of rule in the rush toward starting the August District Work Period.

Mr. Speaker, we have no objections to this rule and urge Members' support for it.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3103, HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES 502

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. NEY). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 502 is a standard rule providing for consideration of a conference report. It waives all points of order and allows for 1 hour of general debate and provides that the conference report shall be considered as read.

But that is where the standard nature of this discussion ends—because what we are about to do is anything but standard. This is truly a red letter day, not just for this Congress, but for the American people. With this conference report we have proven that meaningful health care reform is achievable, even in such a politically charged climate as this. This agreement represents a reasoned, commonsense approach to the problems affecting millions of working Americans. It offers a stark contrast to the extreme efforts of the past Congress—which were largely highly bureaucratic and big government solutions in search of a problem. In this bill we take responsible steps to make health coverage more affordable and accessible for working Americans. While this legislation has been labeled "incremental", its impact on real Americans is profound. No longer will an ambitious worker be stuck in a dead-end job because of concerns about retaining health coverage for a sick child or spouse. The self-employed entrepreneur, who could not afford the high cost of health insurance before, will be able to deduct 80 percent of health care costs. These are real people that will directly benefit from this legislation. Of course, given the fact that it was born of an excruciatingly painful negotiation and required compromises from all sides, this package will not be described as perfect by anyone. For instance, I am disappointed that medical savings accounts will only be available to a small number of working Americans. This innovative alternative to traditional insurance—which has substantial bipartisan support—was unfairly demonized and demagogued by a handful of opponents. Those who deride MSA's do so because they directly conflict with the liberal wing goal of a government-run and government-managed health care system. While MSA's critics seem to believe in an even more expansive Federal bureaucracy than we already have making health care decisions for individuals, MSA supporters

believe in the ability of Americans to make prudent health care choices for themselves.

Finally, this legislation attacks fraud and abuse by increasing the penalties on those who knowingly cheat the system. If there is one criticism my constituents have, it is that administration has not adequately addressed the billions of dollars in waste and abuse in our health care system. This Congress has listened and we have acted.

Mr. Speaker, it is time to stop the delay. This legislation has already been held up too long by political shenanigans—enough is enough. This is the commonsense legislation that Americans have been asking for—let's give it to them—today. I urge support for this rule and the bill.

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

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for yielding me the customary half-hour of debate time, and I yield myself such time as I may consume.

Mr. Speaker, we support the rule that provides for the consideration of the conference report on H.R. 3103, the health insurance reform bill. As most Members know, this is a modest attempt to bring about some basic needed changes in our system of health insurance.

Virtually everyone agrees that we need to increase the portability of health insurance. Workers who change or lose their jobs should not be denied health care coverage. Nor should individuals be denied health care insurance because of preexisting conditions. To the degree that this legislation accomplishes those incremental but important reforms, we strongly support it.

But we are troubled by some other provisions of the conference report, and I just want to take a moment, Mr. Speaker, to point them out.

Many of us are concerned about the provisions setting up medical savings accounts, even though the original House language has, we believe, been greatly improved by the conferees. Still, we are approving a tax subsidy for plans that will appeal to the wealthiest and healthiest in our society, and by taking the healthiest people out of insurance pools, the new MSAs could cause higher premiums for those remaining in traditional insurance plans. Fortunately, the conference agreement limits the number of those plans that can be sold and requires the Congress to revisit that issue in the near future.

We are also concerned about some of the anti-fraud provisions in the agreement, including one that would require the Federal Government to provide advisory opinions on the legality of certain actions. When the House considered this particular provision earlier in the year, the Department of Justice expressed opposition to it on the grounds that it might eviscerate important anti-kickback laws.

The legislation also includes anti-privacy provisions that have caused some alarm. We need to be concerned about the increasing erosion of privacy concerning personal medical matters, and we hope that this provision will receive the necessary oversight from the Congress and elsewhere to keep those fears from becoming a reality.

As we will hear from other Members, the bill also includes a provision that was added by the conferees for one particular pharmaceutical company. We regret that we know so little about the provision. The inability to have a conference report available for 3 or 4 days in fact does work against our best interests in the long run, as this special language proves.

All in all, Mr. Speaker, we support the modest but useful health insurance reforms in the bill before us. Those of us who support health care reform that will ensure all Americans access to affordable health care wished that we could do more. But we know that was impossible this year, despite the continued skyrocketing cost of medical care and the devastating effect those costs have had and will continue to have on the Federal budget.

We hope that this is just a first step, and that the Congress will start tending to the needs of the uninsured and underinsured in our society in the very near future.

But because of the groundwork that has been done this year, Congress will, I hope, be encouraged to return to the issue next year with a better understanding of how we might extend health care coverage and do a better job of controlling health care costs.

Mr. Speaker, as I stated earlier, we have no objections at all. We do in fact support the rule for this conference report, although many of us remain concerned about a number of provisions in the agreement itself. We shall likely have an opportunity to vote to send it back to conference to deal with the important issue of mental health parity and the special language that was included for the benefit of one particular pharmaceutical company. For now, we urge our colleagues to approve the rule so that we can proceed with the debate on the conference report for H.R. 3103.

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

Mr. GOSS. Mr. Speaker, I am obliged for the gentleman's support of the rule, and I share his optimism that we are getting on with health care. To share in that optimism, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. I thank the gentleman for yielding me the time.

Mr. Speaker, in supporting this vital piece of legislation, I just want to pay tribute to the hard work done by Chairman BLILEY and certainly DENNY HASTERT, Chairman ARCHER, BILL THOMAS, Mr. FAWELL, including my Rules Committee member, Mr. GOSS, who helped us mold together the 3 bills that originated this legislation in the first place.

It truly is a historic week here in this Congress. It is amazing what this body can do when we have the cooperation of the Senate and, yes, even the President.

Yesterday in the House we passed with enormous bipartisan support a truly great, I think, welfare reform bill, by a vote of 328 to only 101 negative votes, which the President has indicated that he will sign.

In addition to the comprehensive welfare bill, with the passage of this rule the House will take up the health insurance conference report. This conference agreement is a bipartisan effort which the President has indicated he will also sign.

I might point out that by focusing our efforts on several limited aspects of health insurance which the public is very interested in, this conference report will make it through the legislative process. These reforms were not made by a secret White House task force, as was attempted in the 103d Congress that went down in flames. Yet the reforms contained in this piece of legislation answer the primary concerns of the American people with our system as it stands today.

One of its most important provisions is portability. This provision will improve the availability and the portability of health insurance for American workers. Portability will allow a worker to move from one job to another, and I think we have to refine this later on, without the burden of worrying about health insurance.

Just as important, Mr. Speaker, the bill requires insurance companies to cover preexisting conditions when people are forced to change jobs, and that is one of the flaws in the current medical care delivery system.

In addition, the conference report contains medical savings accounts. These accounts are an innovation which will increase flexibility for employees of small businesses in handling their health insurance.

In the United States we do have the best medical care delivery system in the entire world, and we want to keep it that way. Just go to any of the hospitals. I just spent a stay at Leahy Clinic over in Boston. In that hospital, in that clinic, there were people from all over the world that came here because we do have this great medical care delivery system. We do not want to spoil that.

But this system is in need of some reform. The conference report provides this country with the necessary reform, I think, to give us what we need.

This conference report is an accomplishment which has taken a tremendous amount of time and hard work. I want to commend all of the conferees. It truly is a bipartisan piece of legislation.

I might point out it was even signed by Senator TED KENNEDY, who had been blocking this legislation for a long time. So now that we have him on board, I think we can all pass this bill unanimously. I urge strong support of it.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. STARK], the ranking subcommittee member.

Mr. STARK. Mr. Speaker, the Kennedy-Kassebaum bill is a modest improvement. The elephants mated and begat a mouse. It could have been a great bill, but, in effect, it snatched mediocrity from the jaws of greatness.

It would have been a much greater bill if it had avoided MSA's, if it had guaranteed group health insurance policies to firms of all sizes, not just to those with under 50 employees. It could have been a great bill if it had truly addressed medical privacy issues. There are some real dangers in the privacy being opened up by a national data computer system. And it holds terrible dangers for privacies of our citizens and their medical records being available to insurance companies across the country.

It would have been a great bill if it had not been loaded up with secret last-minute multimillion-dollar breaks for one particular pharmaceutical company. And indeed it would have been a memorial bill if it had provided some modest health insurance protections which would cost relatively nothing.

Senators DOMENICI and WELLSTONE were willing to offer a most inexpensive proposal to limit caps on mental health services to the same kind of caps that may exist on physical health. It is really a slap in the face to those families who must suffer mental health and pay for it out of their own pocket.

For these reasons, I am inclined to support a motion to recommit the bill with instructions to get rid of that drug company welfare loophole—we have not really ended all welfare as we know it, there is still welfare for big contributors to the Republican Party—and a return to work with the Senate to develop a reasonable mental health benefit with modest if no cost to employers or employees.

There is no rush, by the way. None of this goes into effect until the middle of 1997 for anybody. So anybody who thinks they are going to quit their job now cannot possibly think about it until next spring. Another week, another day might produce decent legislation without a risk to our privacy, without an affront to the ethic of the House and the Senate, and, by including mental health, a serious disability for many Americans, in this bill.

I would hope that we could have followed a process. None of the Democrats in the House signed this conference report.

□ 1730

None of the Democrats in the House met in any conference. This was a closed-door, late at night secret session between Republicans with Republicans, and the effort, as a result, is mediocre. I think we could have improved it had we been allowed to participate.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON], the chairwoman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, it gives me great pleasure to rise in support of this very important legislation. Finally, we will give working families the peace of mind that they will not, they will not lose their health care coverage when they change jobs or leave employment.

Five years ago, I introduced the first insurance portability proposal. It was a radical concept. Last Congress, we debated far more comprehensive health care reform legislation that included a very detailed, thoroughly worked out provision guaranteeing portability, as this bill does. Today, we finally complete legislative work accomplishing the commonsense goal that I and so many others have been pursuing for 5 years. It took Republican leadership.

Under this bill, people who play by the rules and have health insurance coverage are guaranteed the right to keep coverage, even if they develop a serious but permanent medical condition, and even if they change employers or work for a small employer and lose their coverage for any reason. But with today's technology in genetic testing, an individual does not even have to be sick to be denied coverage.

An important amendment I offered during committee consideration will protect people who know they carry a predisposition for breast cancer or Huntington's disease from discrimination by their health insurance carrier or future plans.

Finally, I am very pleased this bill is offering very real solutions to families worried about the catastrophic costs of long-term care. I have long proposed tax deductions for the purchase of long-term care insurance, along with my colleague, the gentlewoman from Connecticut, BARBARA KENNELLY, so that fewer elderly Americans will need to spend themselves into poverty in order to get coverage for nursing home care.

The tax incentive of premium deductibility for policies covering long-term care at home or in a nursing home will potentially save billions of dollars in the fastest growing part of the Medicaid program and better serve seniors.

Moreover, this bill requires policies to meet consumer protections, to protect seniors' investments in their policies; another initiative of mine and a number of members of the Subcommittee on Health.

Mr. Speaker, this is truly a landmark day for those of us who have spend years to bring these common sense reforms to us, and I urge my colleagues to support this bill.

Mr. BEILENSON. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from California [Mr. WAXMAN], a member of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Today, thanks to the tenacity and moderation of Senator KENNEDY and Senator KASSEBAUM, this House has before it legislation to make some small improvements, but improvements nevertheless, in the health insurance protections available to Americans.

Today, we finally provide that people who lose their insurance because they move or lose their job or their employer stops providing coverage, that those people will be assured that they have at least access to health insurance coverage and will not have to face a waiting period for any preexisting condition. That is good and long overdue.

Unfortunately, this bill could have been and should have been significantly better. We have failed to seize the opportunity this bill presented to take long overdue and much needed steps to assure parity of treatment of mental health benefits with other health benefits, and that is inexcusable.

We had the opportunity in this conference to agree to the bipartisan Domenici-Wellstone amendment, adopted overwhelmingly in the Senate, to end the discriminatory treatment of mental health conditions in insurance plans. This provision had broad and significant support in the House with more than 100 Senators urging us to adopt it. It had significant support among the conferees, yet the Republican Members who controlled the conference would not allow us to meet to discuss this provision. They lacked the courage to let the public see them debate and vote on this issue.

The losers are the American people. It is every person and every family who has known the tragedy of struggling with mental illness and having no adequate insurance coverage for the services they needed to treat it.

There is simply no place in this country for discrimination against mental health coverage in this day and age. This House should demand that the

conference return to the drawing boards and bring back a conference return which includes a mental health parity amendment.

The irony here is that while the majority would not let us consider adopting protections for mental health benefits, they had no compunctions at all about adding a multimillion-dollar giveaway for their friends in the drug industry.

In the dark of night they added a patent extension for a drug called Lodine. There is no reason to do this, except to help one drug company make more money. And how will they make more money? By having people pay a higher price for that drug by denying a competitor to come on the market.

It demonstrates again that no matter how important a bill is for ordinary people, the Republican majority cannot help seeing it as yet another opportunity to take care of a special interest.

So what the Republicans did was they snuck this provision in without anyone knowing about it. It was not in the House bill. It was not in the Senate bill. Ordinarily, that would be beyond the scope of the conference, and a point of order could be made against it. But this rule waives that point of order. So when we vote to adopt a rule to consider this bill, many Members might not even realize that they are protecting the special interest giveaway. This is exactly what the American people are so sick of.

I also regret that this bill does so little to help people with the problems they have in securing health care coverage. It is important to assure access to insurance for people who have had coverage and lose it. But accessibility without affordability is a small step, indeed.

This reform will prove to be a cruel hoax if people find they cannot afford the coverage that they gain access to.

Of the 40 million Americans who have no health insurance coverage at all, what help will they get with this bill? Almost none at all. Their needs are unaddressed. They cannot afford insurance. They do not have it at their jobs. They go without health care coverage, and they will still have no health care coverage.

They will still have no health care coverage when all is said and done because it will not be available for them even to buy because they did not have it before.

I hope my colleagues do not see the adoption of this bill as a reason to brag about their achievements. We should be humbled by the magnitude of what we did not do. For in the end there is only a small downpayment that we get out of this legislation on the kind of action that the American people have a right to expect and receive from the people they elected to this House.

Mr. Speaker, I think we should give credit for moving at least to this extent to President Clinton, for having raised the fact that people do not have health insurance, even those who have had a job and want to change it. They are afraid to leave that job for fear health insurance will no longer be provided to them.

To the extent that this bill will correct that problem, we should all vote for it and be happy about it. To the extent that after this bill is adopted people will still be uninsured, because insurance was not offered to them or because they could not afford it, it is a disgrace for America to have all those people without the ability to get care when they need it.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume to say that we do not want perfect to get in the way of good, but we also would like to achieve perfect health care on this side of the aisle.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. FAWELL], the chairman of the Subcommittee on Employer-Employee Relations of the Committee on Economic and Educational Opportunities.

Mr. FAWELL. Mr. Speaker, I rise in support of this rule and of the conference report on the health insurance reform.

As one who has been involved in moving this legislation from the beginning, I know that this truly is a remarkable achievement.

I would like to especially give special mention to my colleague and neighbor, the gentleman from Illinois, Congressman DENNIS HASTERT, who has headed up the Speaker's task force and has had that opportunity of bringing everybody together to put this legislation in final form. He has done, I think, a great job.

As is often the case, the Chicago Tribune hit the nail right on the head in a recent editorial about this legislation. It is entitled "Two Cheers for Health Reform." The first cheer is for finally addressing the problem many Americans who have preexisting medical conditions face in maintaining health insurance coverage when they change or lose their job. The second cheer is for taking the first step toward allowing medical savings accounts, or the MSA's.

The missing third cheer is for the provision that I sponsored that passed the House but unfortunately did not make it into the final bill. This provision was the only one that would, from my viewpoint, make significant strides in expanding health insurance coverage to the 40 million Americans who are uninsured, to which the previous speaker made some reference.

This reform would have allowed small businesses to band together under the auspices of national trade associations, whether it is the NFIB, the Farm Bureau, the Restaurant Association or what have you, and self-insure so they could gain all of the cost advantages and economies of scale that large corporations and their employees enjoy and take for granted.

In short, this provision would have made health insurance instantly affordable to hundreds of thousands of small businesses that cannot now afford it, and to millions, yes, to millions of their employees and their families who today make up the bulk of the uninsured population who are employed by small businesses who cannot, because of lack of economies of scale, be able to afford health care.

We made tremendous progress, nevertheless, in moving this provision along, in spite of the misguided yet withering assault by some of the insurance industry and some State insurance commissioners also. Believe me, we will be back next year fighting for this reform with renewed vigor and even broader support. I predict that our small employer pooling provision will pass in the next Congress.

Mr. Speaker, I again enthusiastically support this health care. What we have here, it is good and sound and I think progressive, and I think it is good for the Nation and I urge its adoption.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, the Democrats must declare victory today. The Democrats can take credit for the health insurance reform legislation that we will be shortly voting on. Thanks to President Clinton's leadership, Senator KENNEDY's perseverance and a democratic commitment to health insurance reform, millions of Americans will no longer have to worry about losing their health care in between jobs.

In addition to other much needed reforms, many of the poison pill special interest provisions that the Republican leadership insisted on for the last several months were finally dropped.

I believe that President Clinton deserves much credit here. He brought health insurance to the forefront once again with his January State of the Union address and pushed Republican leaders from inaction to moving health insurance legislation forward.

In April, many of us remember the Senate passed Senator KENNEDY's legislation overwhelmingly, 100 to 0. Unfortunately, Speaker GINGRICH and the Republican leaders in the House were more interested in placating the special interests than passing meaningful reform.

Day after day on this floor we heard about medical savings accounts, a special interest provision that I believe would increase premiums for many Americans and make health insurance unaffordable. As a result, health insurance reform, for a while, appeared doomed.

After increasing Democrat pressure and Presidential leadership, the Republicans finally caved in to our demands and largely removed all the controversial provisions.

□ 1745

MSA's, as the Speaker, knows, will be limited to a pilot program that I hope will not have a negative impact.

Mr. Speaker, I have to say the Democrats have long been advocates of health care for all Americans, and this legislation moves us one step closer to that reality. I realize that it is only a small step that we are taking today and, as the gentleman from California, [Mr. WAXMAN] said, we have to point that out. But in a year when Republicans have tried to slash Medicare and repeal Medicaid, I am pleased that they have come to their senses on at least one health care initiative that may benefit as many as 25 million Americans, and I think that in itself is a major victory for the Democrats today.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS], my friend and colleague, the chairman of the Subcommittee on Health and Environment of the Committee on Commerce and an author of this, from which much of the foundation came from the Rowland-Bilirakis bill, and we owe him a great deal of thanks.

Mr. BILIRAKIS. Mr. Speaker, those of us who have been fighting for the passage of health reform legislation for many years are pleased and proud to see that it finally has arrived and that by the end of this week Congress will send President Clinton a bipartisan health reform bill that he will sign into law.

During the 103d Congress, then Congressman Rowland and I introduced consensus health reform legislation. The Rowland-Bilirakis bill was the only true bipartisan bill considered during the Congress and included health consensus items for which there was broad agreement in Congress. Unfortunately, the Members of the House were not given the opportunity by the leadership then to vote on any health reform package.

Almost 2 years later, attitudes have changed dramatically. Today the House of Representatives will cast a historic vote on a health reform package that is similar to the Rowland-Bilirakis bill.

Is it perfect? No. Should it include other needed provisions? Yes. But at least it is a good start by this Congress.

The items in our conference agreement are nothing new. Many of the components, insurance portability, fraud and abuse reform and administrative simplification, have all been included in past health bills. These issues have been discussed in great detail by Members of both the House and Senate, including these vital components essential to any health reform bill.

Everyone agrees that people should not be denied health coverage because they have been sick. Everyone agrees that job lock must be unlocked so that people can move from job to job without losing health insurance.

The conference agreement addresses these and others of our Nation's most critical health problems. These are problems we can solve now, and in doing so, we will improve the lives of millions of working Americans. As chairman of the Subcommittee on Health and Environment of the Committee on Commerce, I am pleased and proud to be a part of this historic and bipartisan agreement.

Today we make health care in this country both accessible and, just as important, affordable.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise in support of the rule and the conference report on health insurance reform. The conference report contains modest reforms to expand health care coverage. The bill would make health insurance more portable, as we have heard, and would limit the ability of insurers to exclude care for preexisting conditions.

The conference report also contains important health care administrative simplification provisions. These provisions help address the problems of excess paperwork and substantial administrative costs associated with health care. The bill would establish a framework for health date elements that would facilitate the coordination of benefits between different systems and help track fraud and abuse. While many health plans already transmit data electronically, the data is nonstandard, often incomplete.

The bill would also establish strict security standards for health information because Americans clearly want to make sure that their health care records can only be used by the medical professionals that treat them. Often we assume that because doctors take an oath of confidentiality that in fact all who touch their records operate by the same standards. Clearly they do not.

Administrative simplification is the result of a cooperative effort between public and private sectors and has been accomplished, at least this segment of this bill, in a bicameral and bipartisan fashion.

The concept arose from a clear need to address rising health care costs, and I want to particularly call attention to and thank the efforts of the gentleman from Ohio [Mr. HOBSON], my friend and colleague, who brought an expertise in health care policy with him from the Ohio legislature and came to me three years ago and suggested that we work together, using my experience in large scale information systems. In 1994, our language was part of virtually every health care reform effort. Thanks largely to that ongoing commitment by Congressman HOBSON, we are about to see this important reform become law.

Let me comment just briefly, however, on the remarks of my friend and colleague from California, PETE STARK, and my friend from Oregon, JIM MCDERMOTT, who has expressed concerns similar to Mr. STARK's in a "Dear Colleague."

They have both raised concerns about privacy and about Social Security numbers, and just let me add as an aside that both Congressman HOBSON and I over the last three years have developed language that addressed precisely those concerns, and as we engage in the next Congress in the continuing and broader effort to address many of the matters that have been begun in this language today, we offer our commitment to continue that effort to address these concerns.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOBSON], who was just referred to by his colleague.

Mr. HOBSON. Mr. Speaker, the final version of the Health Insurance Portability and Accountability Act includes the provision that you just heard about that Congressman SAWYER and I wrote to modernize the way health care financial transactions are conducted, and we have worked for a number of years in a bipartisan fashion through a couple of Congresses to achieve this.

Americans have the most advanced health care services in the world largely because of the technological advances that have been made. It is time we make the same technology apply to the way our health care system is run. The same high-speed electronic networks that modernized banking can be applied to our health care system so that bills can be filed easier, payments paid faster, and efficiency improved.

In addition, the reductions in paperwork and improvement in speed, security and efficiency in billing helps get at one of the biggest problems currently facing the health care industry: fraud. Today we try to fight fraud with rooms full of clerks checking bills after they are paid, but billions of dollars of fraud simply slips by. Fraud will be easier to fight if every transaction can be coordinated electronically.

Again, my thanks and congratulations to everyone who worked on this project. It has been a model of cooperation between the private and public sectors and between congressional Republicans and Democrats. I am looking forward to voting for this provision in the bill and encouraging everyone here to vote for not only the rule but the bill, this is truly a bipartisan bill.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, four words sum up this health care bill: Thank you, Mr. President. President Clinton made health care reform a top priority of his administration. His original bill did not pass, but it cast light and forced voluntary reforms on insurance company practices that put profits ahead of people.

The President's focus on health care pressured insurance and drug companies to voluntarily hold down their rising costs. Above all, it challenged Congress to act.

Over time, this bill will give more health security to millions of American families. It allows people to change jobs or lose jobs and keep their health insurance. It reduces discrimination against people with preexisting conditions. But our work is not finished. We need parity coverage for mental health and universal coverage, especially for all children.

Democrats have fought for years for health care reform. We never gave up. The Republicans finally gave in. It is an important step forward. Vote for this bill.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentle judge from Ohio, Ms. PRYCE, a distinguished member of our Committee on Rules.

Ms. PRYCE. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for yielding me this time and for his tireless work on this landmark legislation.

Mr. Speaker, today marks another historic day in the House as we move one step closer to enacting common sense health care reform. For years the American people have asked us to enact meaningful reform, and today Congress has come together in a bipartisan way to break Washington gridlock and accomplish this important task.

In 1994, the American people soundly rejected the health care reform plan that put the Federal Government in the driver's seat, controlling prices, benefits, and physician choice. The legislation we will vote on today offers a more practical, even-handed approach to reform that leaves American individuals in control, not government bureaucrats.

I have said all along, through these years of the debate on health care, let us get on with it. Let us at least fix what we can all agree upon. And finally, lo and behold, through the hard work of so many, today we are about to do just that: Portability provisions to relieve job lock and no more, nor more exclusions because someone is unfortunate enough to have a preexisting condition.

Both Republicans and Democrats can claim victory today. This is truly a bipartisan effort. This is a happy day for our country. Much, much good will come of this.

Mr. Speaker, our vote today on this conference report is about more than just reform. It represents a giant step forward in our effort to ensure that as many Americans as possible will have access to the most advanced and reliable health care system in the world.

Mr. Speaker, I urge my colleagues to answer the call of the American people for health care reform that ensures them greater access, security and freedom by supporting this fair rule on the underlying legislation.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, this bill is a real victory for hard working American families, and after 20 months of gridlock and shutdowns I am pleased that the Republican leadership has finally relented to getting something done for the American people. It is about time. The health reform bill makes long overdue changes to our Nation's health care system. This bill will free working families from unfair insurance company practices that deny coverage due to a preexisting condition and deny workers the right to keep their health insurance when they change jobs. This bill will make a real difference in the lives of working families struggling to get and to keep health care coverage.

The construction worker in Wallingford, CT will be helped when he told me that his biggest fear if his company downsizes is that his daughter has a terminal illness and that he stays awake every single night worried about what happens if he loses that job, how will he pay for health insurance for his daughter? And it has taken us 20 months, 20 months to help give some peace of mind to this construction worker in Wallingford, CT.

Let me tell you this achievement would not have been possible were it not for the will and the determination of congressional Democrats. The Republican leadership roadblocked this much-needed legislation, left the health care security of families hanging in the balance. The leadership of the Congress was more concerned about special interest campaign contributions than in the progress and the security of working American families.

Mr. Speaker, we still have a very long way to go. I was disappointed that the conference dropped the mental health parity provision in the bill, and I have introduced legislation to achieve this needed reform. I am committed to working in a bipartisan fashion to enact mental health parity.

Mr. Speaker, today is a good day, a great day for working families and, thanks to the pressure from ordinary citizens in this country, we will make these small and yet important changes in our private health care system. Vote for the health care reform bill.

□ 1800

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], my colleague and friend, and a member of the Committee on Commerce.

Mr. STEARNS. Mr. Speaker, I would say to the gentlewoman from Connecticut that their party has had 40 years to accomplish this bill, and yet it took our party just 2 short years to get portability of preexisting condition. I have to make that point.

I rise in strong support of this rule. This legislation we will vote on today addresses the most fundamental and important issue that currently prevents a large majority of the uninsured from accessing health care. In his medical essays Oliver Wendell Holmes said, the truth is that medicine is as sensitive to outside influences, political, religious philosophical, imaginative, as well as a barometer to the changes of atmospheric pressure.

Having been involved with the debate in 1993, all of us have been involved, and here we are today. Throughout the course of this congressional debate, I believe we have battled all the forces that Mr. Holmes has talked about. We have prevailed finally and achieved our common goal of providing what the American people said they wanted from health care reform.

Passage of this bill will benefit all Americans, especially the 39 million who lack any type of health care coverage. These individuals must live in constant fear of becoming sick and not having the necessary insurance to meet their medical needs.

Lastly, I am particularly pleased that through our Committee on Commerce and working with the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Subcommittee on Health and Environment, we had inserted the two words, "genetic information," in the definition of health status agreed to in the final package.

This will start to ensure that genetic privacy is with the American public and in the medical and insurance industries. Just these two words, "genetic information," for the first time in the history of this country we have put those in this package. I believe it will go a long way to enhancing and making a better piece of legislation.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS], whose presence around here will be greatly missed next year.

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

Mr. Speaker, this meager bill, a very long time coming, is the symbol of the inability of this Congress to even reach obvious compromise in a timely manner. This bill is wildly insufficient. It represents not health care reform but congressional retreat from bold legislative reform.

This bill is not a bold first step. It is a final, sad stumble toward the pretense of health reform. Of course, there are a few good elements in this bill. However, the legislation will increase health insurance costs for millions of Americans. It does nothing to create comprehensive reform, nothing to ensure universal coverage, little to restrain the inequities caused by the American health care insurance industry.

Will most of my colleagues vote for this bill? Of course. Because it is the very best bill the President can get out of a very bad Congress.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I, of course, will rise in support of this bill. It is a small bill. It is important to certain segments of our community, provisions here that cry out to be done and need to have been done for a long time.

I also want to talk about what is not in the bill. What is not in the bill is mental health. I guess I have great concerns about that because as cochair of the mental health working group, a bipartisan group in Congress, there were 116 of us who signed a letter to the conferees asking that the Senate provisions on parity, that is, that mental health be treated by insurance companies as so-called physical health problems, be retained. There is nothing in this bill for mental health.

There is no language concerning parity. There is not the language that was proposed about raising the lifetime caps on insurance policies on mental health to at least the same level and other types of health care policies. There is not even a commission to study.

Yet we have 20 percent of Americans at sometime who are going to experience mental health or substance abuse problems; 30 million Americans will have some kind of problems with mental health and mental illness, yet only 20 percent of those are able to seek help, only 20 percent of those.

Some say you cannot have mental health in there because it is a lot different. You do not treat mental health the same as physical health. You know a broken arm, you can treat that.

How do you treat low back pain, how do you treat arthritis, how do you treat migraine headaches, how do you treat hypertension? All of these are compensable under regular insurance policies but for some reason mental health does not factor in there.

I would also point out that depression alone has a higher morbidity rate than heart disease, lung disease and hypertension. So mental health needs to be a vital element in this. Yes, this is a small area of reform, but mental health needs to be included. I would urge all of us to continue focusing to make sure that mental health has the same priority because mental health is every bit the same priority as the other areas that are so important in this bill.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON], my friend and colleague on the Committee on Economic and Educational Opportunities.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Florida for yielding the time to me. I would like to echo his comment that this is a red letter day.

As a practicing physician in the past, I have seen firsthand the consequences of people not having health insurance and how they will often let minor illnesses go for extended periods of time until they become a serious complication and ultimately lead to greater costs than what they would have been otherwise. I have also seen the consequences of people being excluded from health insurance because of a preexisting medical illness and the consequences of job lock that that can sometimes cause.

I honestly looked on with horror and amazement when the Clinton administration put forward their health care plan, which essentially constituted a major power grab of the Federal Government of a huge sector of our economy, a Federal Government that does not have a track record of running things efficiently or better. I felt so strongly that it was possible to introduce reforms that would go a long way to deal with the problems of the high cost of health insurance and the problems of lack of portability of coverage as well as the problem of preexisting illness exclusion.

I felt it was really honestly possible to produce a piece of legislation that would take our system which is the best health care system in this country and make modifications in it that would help so many people who do not have health insurance get insurance. Is this a perfect bill? No. But we should never make the perfect the enemy of the good.

There are provisions that some of my other colleagues have talked about that were left out of this bill that need to be considered in future legislation. But let us remember this bill addresses portability. It addresses preexisting illness exclusions. It addresses problems of waste, fraud and abuse. It has small business deductibility, tax deduction allowed for long-term care for our seniors.

This is a good bill. It is accomplishing these things without a Government takeover of the health care. I urge all my colleagues to support the rule and support the conference report.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in support of the rule and the conference report. This bill is long overdue. Americans have wanted health insurance reform for a long time. This bill will help make health care more affordable and more available.

The bill addresses portability. It allows the self-employed an increase in their health care tax deductibility, and that will help make health insurance much more affordable. It establishes medical savings accounts, and that will help make health insurance more affordable. It provides tax deductions for long-term care expenses, and that will help make health care much more affordable.

The bill cracks down on fraud and abuse, and that will help make health care more affordable.

Let me go into a few details on the fraud and abuse sections. The bill establishes a national health care fraud control program to coordinate Federal, State and local efforts to fight fraud. It extends antifraud rules for Medicare and Medicaid to other Federal programs. It requires the Secretary of Health and Human Services to provide seniors with better explanations of benefits so they can scrutinize their bills for waste, fraud and abuse. And the Secretary can provide a reward to seniors who have identified those problems. It excludes people found guilty of health care fraud felonies from participating in Medicare and other health care programs for at least 5 years.

It creates a new crime for people who knowingly dispose of their assets to qualify for Medicaid benefits. It creates a stiff civil money penalty for practitioners who falsely certify that a Medicare enrollee meets the test for home health care services.

Mr. Speaker, this is a win-win proposition for the American people. It will provide expanded health care coverage without creating huge new bureaucracies. In fact, we give more power to individuals to make their own decisions when it comes to health insurance.

This week we will have helped reform, both welfare and health care. The debate gets pretty hot sometimes, but I salute my colleagues on both sides of the aisle who have made this a productive week in Congress.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. NORWOOD], a member of both the Committee on Commerce and the Committee on Economic and Educational Opportunities.

Mr. NORWOOD. Mr. Speaker, I detect, as we go into this debate, some frustration on the other side of the aisle from those who would have federalized health care in this country just 2 years ago or socialized medicine. But, Mr. Speaker, I am going to rise today in support of this rule and this conference report. While this version of H.R. 3103 does not include many of the provisions I think that are necessary

to really increase access to health care, this bill is the best bill we could get in this Congress with this President.

During this debate, I have been amazed at how political the right thing to do can become. Rather than doing what we need to do, some Members of this Congress delayed consideration of this bill for months. I assume they were afraid to cede power from the Federal Government to the people. This is unfortunate.

Mr. Speaker, I am going to continue to fight for what is right. We need tort reform, expanded access to medical savings accounts, small employer pooling and other options meant to provide access to lower cost health care.

This bill does make health care more available and affordable for millions of Americans without a government take over of health care.

I am absolutely amazed at what my friend, the gentleman from New Jersey, Mr. PALLONE said. He said that the Democrats need to take credit. Well, they could have had credit just 4 years ago if they had allowed Mr. ROWLAND and the gentleman from Florida, Mr. BILIRAKIS, to produce their bill and bring it out on this floor. But they kept that from coming out and these 40 million Americans could have had this advantage 3 or 4 years ago, had they not been so interested in socializing medicine.

My friend, the gentleman from California, Mr. WAXMAN, says that all 40 million people, not one of them will be helped by this bill. Yet my friend, Mr. PALLONE, says yes, 25 million of the 40 million will be helped by this bill because he knows this bill will pick up small business owners. It will take care of preexisting conditions and many other people will get insurance.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I thank the gentleman from California [Mr. BEILENSON] for yielding me this time. He will be missed, his presence, around here as well next year.

This is a good bill and I rise in support of it and the rule that supports it. It is a good bill because it works for a number of Americans. But we have some work left to do for a lot of other Americans.

This bill says to someone who has had breast cancer or a triple bypass operation, if you lose your job and you have to look for new coverage, you cannot be denied that coverage because you were so unlucky that you got sick. That is a good thing. I believe there are mechanisms in this bill that would make sure that you would be offered that coverage at about the same rate everybody else would, and that is a very good thing.

□ 1815

This bill says to the person who is the next victim of corporate downsizing that they will have the right to stay in the health care plan that they were in when they were working until they find their next job, or maybe even after they find their next job for awhile. They will have to pay for it, and that is very difficult for a lot of people, but the fact of the matter is it is a lot better to be able to write a check to stay in the plan that they are already in than to have to go look for new coverage after they have lost their job, and that is a very good thing.

It is a good thing that self-employed people are going to be able to deduct more of their premiums now than they were before from their income tax return. They ought to be able to deduct 100 percent of it, but it is a very good thing that we have increased that.

It is a good thing that people who buy long-term care insurance, who if they have to go into a nursing home will have to have an insurance policy to cover it, can get some help on their tax return if they do. That is a good thing.

But there is work we have left to do. This bill works in that way for a lot of people. There is work we have left to do.

This bill does not really help the family that is sitting there tonight, that is so upset because one of the people in the family has a severe mental illness, is a manic depressive, let us say, and they are worried that that person's next hospitalization is going to bankrupt the family because there is a $10,000-a-year limit on mental health benefits.

There are good things, but there is work we have left to do. I support the bill and the rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I salute the gentleman from Illinois, Mr. HASTERT, the gentleman from California Mr. THOMAS, the gentleman from Texas Mr. ARCHER, the gentleman from Virginia Mr. BLILEY, and my colleague from Connecticut, Mrs. JOHNSON, on our side of the aisle, and I know there are Members on the other side who deserve credit as well because this is a bipartisan effort.

I am grateful in a bipartisan effort we have ensured portability of insurance, limited preexisting condition exclusions, required health insurance providers that serve small group plans to accept every small employer, and I am grateful that we have made health care more affordable and available by reducing administrative costs, but I want to speak to title 2 of the bill, particularly, which attempts to address the $100 billion of health care fraud.

Both presidents Bush and Clinton had advocated that we deal with this. Unfortunately, President Clinton's proposal was in his socialized medicine plan, but that part of the plan that said deal with fraud had merit. It was what President Bush also had suggested.

The gentleman from New Mexico [Mr. SCHIFF] and the gentleman from New York [Mr. TOWNS] and I on our committee had worked on this, and we are happy to see it included in the bill, because in the past we dealt with fraud such as wire and mail fraud and attempted to get someone who cheated the system when we had hundreds of billions of dollars of fraud. Now we are making health care fraud a Federal offense, not just for Medicare but also for Medicaid, for CHAMPUS and all private providers. This obviously makes sense, and I salute my colleagues for doing it.

We just need to know that those who commit fraud have a tough test. They should have known for a civil penalty the issue is that there has to be knowing and willful attempt to defraud the system. This does not go at individuals who have unknowingly miscoded. This goes after the real pattern of continued fraud, and I salute this bill and those on both sides of the aisle who have, for the first time in decades, attempted to get at waste, fraud, and abuse in a very real way.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in support of the conference report on H.R. 3103 as a reasonable first step in helping families get the health insurance coverage they deserve, but I think this legislation only marks a very modest starting point. The provisions of the bill ensuring portability of health insurance and protections against discriminatory coverage for a preexisting condition will provide some important new benefits for America's working families. But they will only be benefits to those who already are fortunate enough to have access to affordable health insurance.

A recent report by the Department of Labor on health benefits shows the real challenge we face as employers are backing off a commitment to providing health benefits. The share of full-time workers covered by health insurance dropped from 96 percent in 1983 to 82 percent in 1993. Hopefully, the recent drop in health insurance costs to all-time lows will turn this trend around, but I don't think we can count on it. We must rekindle our commitment to real health care reform that will extend health care coverage to the 37 million people who are left behind.

Those of us who have supported the Kennedy-Kassebaum-Roukema bill from the beginning are pleased that the objectionable provisions added in the House bill were eliminated in conference, including the medical malpractice and MEWA provisions. The Medical Savings Account has no place in a bill that seeks to expand access and affordability of health insurance, but I think that Senator KENNEDY did a very admirable job in striking a

compromise on this issue so that even this modest progress towards health reform was not derailed.

I will support the motion to recommit that addresses two remaining problems with this conference report. One was the dropping of the Domenici-Wellstone amendment. We have missed a critical chance to achieve parity in health insurance coverage for mental illness in this conference report. I worked on this issue extensively when we considered health care reform in the 103d Congress. Prejudice and stigma against the mentally ill has no place in the development of sound health care policy in this Nation. Studies have shown that in contrast to being an added cost, mental health parity would save the national economy and the Nation's small businesses more that $2 billion annually. It is terribly shortsighted to fail to recognize that mental health disorders cost the American economy as much as $162 billion per year in lost productivity, absenteeism, disability and death, and that such disorders are so treatable when treatment is available. I will continue to work with the many other Members of Congress who recognize that our Government cannot stop short from including parity for mental illness as part of any health care reform effort.

I am also sad to see that greedy special interests have once again gotten their way in this Congress by last night's sleight of hand providing a patent extension for Lodine. This inexcusable assault on consumer interests should be stopped, just as similar relief for Lodine was stopped several other times in this Congress.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman from California for yielding time.

I rise to support the Kennedy-Kassebaum health insurance bill that is before us, Mr. Speaker. The passage of this incremental health insurance bill is long overdue, but it barely scratches the surface of what needs to be improved in this country's health care system.

Oh, yes; it does help people who already have insurance through their employers but who are suffering from job lock. Under this bill they are guaranteed coverage through another employer's group plan or through individual coverage, regardless of preexisting conditions, and the bill allows the self-employed to deduct 80 percent of their health insurance premiums, which is up from the current 30 percent in present law. These are important changes.

But this bill is only a small first step. We need to go much further. We need to help those who do not already have insurance, the millions of people whose employers do not offer coverage, or the self-employed whose kids go to school sick because their parents cannot afford to take them to the doctor, the people who do not have insurance at all, the 40 plus millions of people who do not have insurance at the present time.

We need to help make insurance more affordable for people who are not covered at work and cannot afford to buy insurance on their own, and we should require health plans to offer good benefits and assure quality care. People can still end up with bare-bone policies that drop them and put lifetime limits on their care, and provisions that were in this bill which guaranteed equal treatment for mental health care have been dropped, and that is a tragedy.

So this bill is a good first step, but it is not health care reform as we ought to be doing it. We should support this bill and then get on with the job of making health insurance affordable and accessible to every single American.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. CHRISTENSEN], a member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, today we are keeping our promise to pass real health care reform legislation, legislation that will improve the availability and portability of health insurance across America.

It is hard to believe that just a little over 2 years ago we were looking at the Clintons' takeover, the Government takeover of our health care system, one-seventh of our GDP. Do my colleagues remember the bureaucracy that was set up through this nationalized health care program that the Clintons put forth?

Well, our program is nothing like that bureaucracy. Our program allows private sector solutions. It allows the insurance to be more available and more affordable for all Americans. it allows preexisting conditions not to be a problem any more. It cracks down on waste, fraud, and abuse, and it allows for the creation of 100 percent portable medical savings accounts.

Simply put, Clinton care was about helping government. Our legislation is about helping people.

I urge my colleagues to support this historic commonsense health care reform legislation.

Mr. GOSS. Mr. Speaker, I yield 30 seconds to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mr. BEILENSON. Mr. Speaker, if I may, I yield 1 additional minute to the gentlewoman from New Jersey.

The SPEAKER pro tempore (Mr. NEY). The gentlewoman from New Jersey is recognized for 1½ minutes.

Mrs. ROUKEMA. Mr. Speaker, I am rising here, proud to be here today as the prime sponsor of the Kassebaum bill on the House side. With this bill today we definitely are again responding to our constituents' pleas, namely that we should stop the bickering and the political gamesmanship and the gridlock and deal with the issues that count with the American people. That is what we are about to do tonight, and I strongly support it. We are responding.

I know the medical savings accounts have been talked about. This is a good pilot project despite the controversy that it provoked, but this bill will bring peace of mind and health insurance security to more than 30 million Americans, and we can all be proud of that.

But, Mr. Speaker, I am sorry to say that we were unable to stop the blatant discrimination against mental health patients. Ignorance and apathy, I am afraid, defeated this provision in the conference.

But I want to pledge here and now that I stand ready to work with Senator DOMENICI and others to bring this issue back and educate our colleagues on this humane and intelligent reform. That is a problem for another day, but tonight we stand here ready to deliver relief to the American people.

Mr. Speaker, I rise in support of the compromise that is incorporated by H.R. 3103, an omnibus package of health reform proposals.

I am proud to be here as the prime sponsor here in House, the heart and soul of the bill before us today is the so-called Kassebaum-Kennedy-Roukema health insurance reform package, which make health insurance portable for workers who want to change jobs and bring their current plan with them; allows small businesses to pool together in order to buy health insurance more affordably more their workers; and cracks down on the ability of health insurance carriers to refuse coverage for people who have been sick in the past.

We are here today responding to the pleas of our constituents to stop the gridlock and bickering and deal with the issues that count. With this bill we have responded to their pleas. This legislation will bring peace of mind and health insurance security to 30 million Americans.

And I'm very pleased to see that the conference committee retained a provision that allows the self-employed to deduct up to 80 percent of their health insurance premiums by the year 2002, which was not in the original Kassebaum legislation but that subsequently added.

And although I voiced grave reservations about the medical savings account provisions that were added to the House version of this legislation—because it appeared that they might serve to kill the underlying reforms—the conferees worked very diligently to reach an agreement on MSA's that both the Congress and President can support. This agreement brings a credible first step in the form of a pilot project.

For this, I congratulate my House and Senate colleagues because they have reached a historic agreement. The American people can be proud of the fact that this valuable legislation is here today, and headed toward enactment because President Clinton will sign this bill into law.

A very strong and broad coalition has worked long and hard to bring the Kassebaum-Kennedy-Roukema legislation this far.

Some of the more notable members of this coalition have included: The National Governors Association; the American Medical Association; the American Hospital Association; the Chamber of Commerce, the National Association of Manufacturers; the Business Roundtable, and the AFL–CIO; the Healthcare Leadership Council, and the Independent Insurance Agents Association; the ERISA Industry Committee [ERIC], and the American Association of Retired Persons [AARP], are just a few of the more prominent supporters of the Kassebaum-Kennedy-Roukema legislation.

Some of the provisions included in the House version of this bill—such as medical malpractice reform legislation—are proposals I have vigorously supported in the past, and will continue to support in the future as freestanding measures.

Nevertheless, I am sorry we are unable to stop here and now the blatant discrimination against mental patients. Mental Health parity was eliminated in conference. Ignorance and apathy defeated mental health parity in the conference.

I stand, nevertheless, ready to continue to work with Senator DOMENICI to bring this back and educate our colleagues on this humane and intelligent reform.

The time has come for the Congress to stop playing games, the American people are sick and tired of bickering and political gamesmanship.

We must immediately enact commonsense, incremental health insurance reforms contained in the bill before us today.

The General Accounting Office [GAO] has estimated that up of 30 million American citizens would benefit from the health insurance reforms incorporated in the Kassebaum-Roukema plan.

In closing, Mr. Speaker, I urge my colleagues to join me in supporting H.R. 3103, because its the right thing to do for the American people now.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, it is my intent to yield all of the remaining time on our side to the gentleman from Illinois [Mr. HASTERT] to close. It is often said that it takes a lot to make something happen around here. This is a gentleman who has given a lot to make something happen around here, and I am proud to yield him the closing time.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Florida for yielding me this time to talk a few minutes about this bill.

This bill gives people availability of insurance and affordability of insurance. These were the guide words, the words we talked about to make this happen.

That means that a mother who wants to change jobs and has a child that is asthmatic can take that next job. It means a father who wants to move up and do a better job for his family and get a better area or level of his occupation can move to the competitor in the next job over and know his wife with the heart condition can get that care when he changes jobs.

It also means that families have choice; that if they choose to ask a doctor what is the price of this care or if they ask their health care giver what is the cost, that they can get a cost and they can make a decision on where they go because of medical savings accounts.

It also tells a barber in Elgin, IL who wants to have a deductibility that is fair with other companies he can do that. He can deduct his cost of health care up to 80 percent off his income tax.

It is a bill of fairness, it is a bill of availability, and I just want to thank some folks before I leave this podium. Certainly this would not have been done without a fine staff: Ed Cutler, Howard Cohen, Chip Kahn, Phil Mosley, Bitzie Beavin, Russ Mueller, and the Senate staff that worked with us.

And also the chairmen who gave freely of their time and their work to make this happen: Chairman ARCHER, Chairman BLILEY, Chairman HYDE, and Chairman GOODLING, and the subcommittee chairs, Mr. THOMAS, Mr. FAWELL, Mr. BILIRAKIS, and Mr. MCCOLLUM.

But most of all I would like to thank the gentleman from Florida [Mr. GOSS] who spent unending hours listening to meetings, so when this bill came together it came together in the right way and it came together in the Committee on Rules.

I thank all of them. This is a good day, and I look forward to passage of this bill.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3675. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3675) "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. DOMENICI, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. SHELBY, Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Ms. MIKULSKI, and Mr. REID, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the Committee on Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3603) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1997, and for other purposes."

□ 1830

CONFERENCE REPORT ON H.R. 3103, HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Mr. ARCHER. Pursuant to House Resolution 502, I call up the conference report on the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. NEY). Pursuant to House Resolution 502, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 31, 1996, at page 20782.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] and the gentleman from California [Mr. STARK] will each control 30 minutes.

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

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Member may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on the conference report on H.R. 3103.

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

There was no objection.

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

Mr. Speaker, this is truly a great day and a great week. As significant as all our actions may be for this historic new Congress, the action we take today is even greater for someone else. That someone else may be the victim of breast cancer, locked in a job that she cannot change because she fears losing her health insurance. It may be a victim of diabetes. It may be someone who has had a heart attack, a stroke, or anyone who has ever been seriously ill.

It also, Mr. Speaker, may be my new little baby grandchild, who, born prematurely this year, came into the world weighing just 2 pounds. To me, this little boy is a beautiful child who, thanks to the wonder of modern medicine, can now have a full life. But to others, my grandchild is still a preexisting condition. When he gets older, he too may not be able to change jobs or even get insurance in the first place.

But I am happy to say that this bill changes all that. This bill lets people change jobs without losing their health insurance, even if they have a preexisting condition.

What a major breakthrough for my grandson, Archer Samuel Hadley, and for millions of Americans who now know this Congress has heard their pleas and answered their prayers. This is the bill that does that, and much, much more. It powerfully fights fraud and abuse by creating new criminal penalties and by increasing funding for prosecution and investigation.

It creates strong and workable medical savings accounts so people can choose their own doctors and control their own health care destiny, seeking the best value in the marketplace, without relying on third parties to pay the bill. It creates new tax deductions that help make health care more available and affordable for millions of Americans.

Mr. Speaker, this is the health bill that the American people have wanted for years, and Mr. Speaker, we did it without a government takeover of the health care delivery system of this country.

We promised to make these changes, and I am proud that we have done it, working together in a bipartisan way, doing the job the American people expect of this Congress.

It has been a great week for this Republican Congress, and a great week for all of us. It has been a great 2 years of accomplishment for our efforts to reform Congress and change America. This Congress will go down in history as the did-something Congress. More importantly, it has been a great week for the American people.

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

Mr. STARK. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the bill that passed the Senate unanimously was a great bill. The conference product that we discuss today is an okay bill. The House Republicans have turned the Senate silk purse into a sow's ear, and there are many reasons for disappointment.

For example, why, my Republican friends, is there no mental health parity amendment? We should have done it. It was part of the bill passed by the Senate. It does not cost much. Sixteen cents per thousand is all it costs. We could raise the deductibility $5 for every policy and pay for it. So I would say to the gentleman from Texas, BILL ARCHER, if his grandson had been born with mental illness, he could not have afforded to be treated because this bill would deny him that coverage.

We did not have a real conference where we could have worked this out. We could have phased in the cost of eliminating these caps, but the Republicans would refuse to meet on this issue.

The bill's antifraud provisions are bad. The advisory opinions on intent-based fraud cases are unprecedented, and the Justice Department-HHS's Inspector General strongly oppose them. It will cost Medicare $388 million in foregone revenues over 6 years. Advisory opinion fees are not dedicated to the inspector general, and it devastates the agency's ability to fight fraud that they talk about.

The MSA's are bad. The earlier version could cost $1 billion over 5 years. Who knows what this modest plan will do? But it is a payoff to J. Patrick Rooney and the Golden Rule Insurance Co., who have given the Republicans over $1.2 million, that we can determine.

The conference agreement tries to limit the harm by limiting MSA's, but we doubt if it will. Last night someone inserted a 2-year monopoly patent extension for the American Home Products Co., which has really nothing to do with this bill.

There is a guaranteed issue only to small groups. The Senate bill guaranteed that any group, any company, could buy any group health plan sold in a State. The House Republicans limited the guaranteed issue to small businesses of 50, so a firm of 51 people does not have guaranteed access while a firm of 50 does. It makes no sense at all. It is silly. It discriminates against mid-size companies in dangerous lines of work: logging companies, for example.

The MediGap duplication. This allows the sale of unnecessary and duplicative health insurance policies, a special interest gift to American Family Life Insurance Co. The consumer groups are outraged. This will let unscrupulous salesmen once again sell policies which seldom or never pay out any benefits.

As for phasing in the deduction for self-insured, the Senate did a far better job. The GOP bill goes to 80 percent by 2006. The House Democrats would have had 80 percent by 2002. It is backloaded. They could and should have used the MSA money to increase the deduction for all self-employed.

Mr. Speaker, this bill channels people into a limited number of plans and could drive up rates. There is a proposal for cross-subsidization, but there is no guarantee. The Senate bill had an easy and obvious solution: Every individual plan offered by an insurer had to be available to an eligible individual. We do not need this complicated proposal. We should have kept it simple.

What the bill does not do is the price of policies are unaffected. They could remain too high. This is only going to help 400,000 people, the CBO tells us. The number of uninsured is rising at 1 million a year. Medicaid cuts passed yesterday will hurt millions of people.

We took one step forward with this bill, and yesterday we took 10 steps backward, so I hope that this bill could be expanded and returned to conference to do the job and the proper job that was done by the Senate under the leadership of Senator KENNEDY.

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

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

Mr. Speaker, I would simply say that at this moment, when we are going to do so much good for so many Americans, I am saddened that my friend, the gentleman from California, has taken a confrontational attitude to attempt to try to pick apart this bill. Instead of looking at the good, he is looking at things that he does not think are perfect. It is very much like the individual who goes into the Sistine Chapel and looks up at that gorgeous ceiling and says, oh, look at the cracks.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BLILEY], the respected chairman of the Committee on Commerce.

Mr. BLILEY. Mr. Speaker, I thank the gentleman from Texas, chairman of the Committee on Ways and Means, for yielding me the time.

Mr. Speaker, as we say down in Richmond, this day has been a long time coming.

This measure gives American workers something they've been promised for 20 years or more—the right not to be denied health insurance coverage because of a pre-existing condition.

They'll have that right, whether they change jobs or, God forbid, lose their jobs.

But that's not all. This bill also assures the job-creators—those men and women in small businesses all across America—that they, too, will be guaranteed that they can now purchase coverage from insurers.

It's long overdue. And it's being brought to you by the first Republican Congress in 40 years.

Not the big labor bosses who promised it all these years.

Not the Clinton White House that demagogued this issue from coast to coast.

No, I repeat: it's being brought to American workers by the first Republican Congress in 40 years.

That's because those folks sacrificed the good on the altar of the perfect.

Common-sense health care reform isn't enough, they said.

Providing Americans the right to keep their private health insurance isn't adequate, they said.

They didn't care about those things.

What they cared about was universal coverage—Canadian-style health care.

They failed in that goal, and their failure brought this Republican Majority to Washington.

Today, that Republican Majority delivers what the others just promised.

Our Committee, I'm proud to say, played a key role in this legislation—with what I believe to be the heart and soul of this measure.

Because of the Commerce Committee's portability provisions, Americans who lose their health insurance because they lose or change their jobs, once they exhaust their COBRA coverage, will have a guaranteed right to purchase health insurance.

From now on, the Insurance Companies will have to offer these individuals a comprehensive policy.

Every day in this country, men, women and children are diagnosed with leukemia, with cancer, with cystic fibrosis, with diabetes. With any number of illnesses that the insurance companies call "pre-existing conditions."

Those poor people and their families have enough on their minds, without having to worry that if they change jobs, or move, or get laid off, they'll lose coverage for those conditions because of a "preexisting condition" clause.

Because of the Commerce Committee's provisions in this bill, they won't ever have to worry about that, ever again.

Mr. Speaker, this year our committee has improved the safety of the food we eat, the purity of the water we drink.

We've improved the phones we communicate with, the computers we use, the television we watch.

With the Securities bill, we've made it easier for American businesses to raise the money they need to create new jobs.

And with Securities Litigation Reform, we've scored the first victory in my memory against the powerful Trial Lawyers' Lobby.

Mr. Speaker, that ain't bad.

But none of these, in my mind, is as important to Americans as what we've achieved today.

This is an historic accomplishment, one that has been too long in coming.

It's a pity it didn't happen three years ago. It could have, but some wanted to over-reach.

I want to thank my friend, Mr. DINGELL, who has worked so hard for so many years in fulfillment of this goal.

I want to thank the chairman of our Health Subcommittee, MICHAEL BILIRAKIS, and his ranking Democrat, HENRY WAXMAN.

But most of all, I want to thank our colleague from Illinois, DENNIS HASTERT, without whose singular efforts this day would never have happened.

In this Olympic week we've gone from the "gridlock Congress" to the "gold medal Congress."

This is a great day, Mr. Speaker. A great day for this 104th Congress, a great day for millions of American workers and their families.

Mrs. KENNELLY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentlewoman from Connecticut, for yielding me this time.

Mr. Speaker, let me first start by thanking my colleagues on both sides of the aisle, particularly my two friends on the Committee on Ways and Means, the gentlemen from California, Mr. STARK and Mr. THOMAS, for bringing forward a bill on health care reform.

Mr. Speaker, I support the Kennedy-Kassebaum bill, the bill from conference that is before us. This bill is not a panacea of health care reform, but it is a good bill, on balance, that expands access to health coverage for working Americans. When this bill is signed into law, it will ensure that if you have insurance, you can keep it. This is an important change from today's system. It will provide a new measure of health security for working Americans.

The conference report before us ensures that working Americans with preexisting conditions cannot be denied health insurance as long as they maintain coverage. In addition, it would prevent insurance companies from using genetic information to deny health coverage. It is absurd that today's genetic testing advances are being used by insurance companies to deny coverage. This bill will end that practice.

Mr. Speaker, let me just give one example of how a typical working family can benefit from the legislation before us. The bill will provide someone the freedom to leave IBM to start their own computer company, even if a member of that person's family is suffering from diabetes. Today that person would be unable to find an insurance company who would cover the family if they went out on their own. After passage of this legislation, that person would be able to pursue that career without the fear of putting their family's health in danger.

In addition to the health insurance reforms, the bill would equalize the tax treatment of health insurance premiums between the self-employed and major corporations. This change, based on legislation I authored, will benefit thousands of small business owners around our country.

Today's consideration of this bill is long overdue. It is an important step. However, it is by no means the final step or even a comprehensive solution to health reform. The bill fails to address affordability of health insurance. This is a vital issue which we must not overlook. We still have a long way to go. I urge my colleagues to continue to work together for comprehensive health care reform to extend health coverage to all Americans.

□ 1845

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. ROBERTS], the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Speaker, as a cofounder and former chairman of the Rural Health Care Coalition, I rise in support of this bill. I thank Mr. ARCHER, Mr. BLILEY, Mr. THOMAS, Mr. GOODLING, and Mr. HASTERT for their leadership and perseverance.

Mr. Speaker, I rise in strong support of the conference report to H.R. 3103, the Health Insurance Portability and Accountability Act. This bill includes sensible, workable provisions to expand access to affordable health care insurance for America's families.

This legislation is especially important to my constituents in Kansas. Ten percent of Kansans lack any form of health insurance. These folks are generally small business owners or self-employed farmers and ranchers. This bill takes several steps to bring relief to these individuals and their families by expanding their insurance options.

First, this legislation will make health insurance portable. Under H.R. 3103, the 4 million Americans who are staying in their jobs just to maintain their health insurance benefits will finally be free to pursue other opportunities. This "job lock" is a real problem for not only the employer and the employee, but also for the economy. Today, too many working parents are afraid to pursue new opportunities, start a new career or become an entrepreneur because they don't want to lose the health insurance they now have.

Second, this legislation will limit the preexisting condition requirements that currently prevent 21 million Americans from getting health insurance coverage. I have heard horror story after horror story about families that have lost everything just because their insurance company won't cover Dad with his heart condition or the new baby who was born with diabetes.

Third, this legislation will make health insurance affordable. Individuals who lose coverage through their employer will now be able to purchase affordable health insurance on their own. This legislation will also bring some well-deserved relief by increasing the tax deduction for health insurance for self-employed individuals, including the small business owners, farmers, and ranchers in Kansas, from the current 30 percent to 80 percent. This increase in deductibility is something that my colleagues and I on the Rural Health Care Coalition have been working toward for years.

Finally, this legislation takes the first step to make health insurance accountable through a limited medical savings accounts demonstration project. It's time that we all took an active role in the health care decisions that affect our daily lives and pocketbooks. Medical savings accounts will put families in control of their health care. In Kansas, which is home to over 65,000 small businesses, these MSA accounts provide the opportunity for individuals to

choose where to spend hard-earned health care insurance dollars.

My colleagues, the time has finally come. We have agreed on real reform that will get at the root of one of the most serious flaws in our health care system. I applaud Chairman ARCHER and all those who have worked tirelessly on this effort and I urge my colleagues to join me in support of the conference agreement.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I rise in support of the conference report on H.R. 3103, The Health Insurance Portability and Accountability Act of 1996. This is truly an historic occasion which rivals the passage of ERISA (the Employee Retirement Income Security Act of 1974) upon which the foundation of this health insurance reform legislation is based.

The provisions in the conference report relating to portability and health insurance accessibility are structured similarly to those in the House passed bill and the ERISA Targeted Health Insurance Reform legislation originally reported by the Committee on Economic and Educational Opportunities. Under the new portability protections, employees can no longer be told that their plan will not cover them because of a preexisting medical condition when they are continuously insured. Small employers can no longer be told by insurers that health insurance is not available to their employees because of the risks of their jobs or their previous claims experience. In sum, employees will no longer have to fear, when they leave their job or take a new job, that they or their loved ones will lose access to health insurance.

This legislation will actually increase the choice of health insurance coverage offered to American workers, but without taking away the coverage they currently enjoy. These choices includes high deductible health plans and medical savings accounts for which the employees of small employers and the self-employed will be newly eligible.

Former employees who have exhausted their access to employer coverage will also be given important new rights to acquire health insurance in the individual market even though they or a dependent may have a preexisting medical condition.

Health coverage will also be made more available and affordable by granting millions of self-employed businessmen and businesswomen the right to deduct their health insurance costs on a basis similar to corporations. When fully phased in, these Americans will be able to deduct 80% of their premium costs.

Both public and private health plans will be better protected from unnecessary costs under the provisions of Title II, which are designed to prevent health care fraud and abuse and to recover any losses in connection with such plans.

The conference agreement is a solid step forward in securing increased health insurance accessibility, affordability and accountability for American workers and their families.

I would be remiss, however, if I did not mention my disappointment that the conference report does not include two important reforms designed to expand coverage and reduce health insurance costs. Malpractice reform was dropped as a concession to the White House in order to move the legislation along. I reject the idea that reforms of malpractice awards are unnecessary and will continue to insist we address this issue in the future.

Also, by omitting the small business pooling provisions under Subtitle C of the House bill, I believe this Congress has missed an important opportunity to extend more affordable coverage to the millions of uninsured employees working for our country's small businesses who today do not have health insurance coverage. These provisions would have built upon the ERISA cornerstone of this Nation's employee benefits law to allow employers, particularly small employers, to achieve economies of scale by joining together to form either self-insured or fully-insured health plans. The number of uninsured workers will be a continual reminder that this mechanism for expanded health coverage is needed and should be included at the earliest possible time.

Nonetheless, the legislation does preserve without change the ERISA preemption cornerstone which has fueled the marketplace dynamics that have recently reduced health insurance cost inflation, at least in the large group market. Also reflected in the new preemption section of this Act (adding section 704 to ERISA) is the need for national uniformity regarding the procedures and reporting required to make the portability mechanism work for all the employee health benefit plans covered under the legislation.

The participants and beneficiaries of ERISA covered health plans can also look to the uniform remedies under that Act to enforce their rights to the portability, preexisting condition, enrollment, renewability and nondiscrimination requirements applicable to both ERISA plans and insurers under ERISA Part 7. Identical provisions apply to church plans (but only under the Internal Revenue Code) and to governmental plans and insurers (under the Public Health Service Act). Section 104 makes it clear that these identical provisions are to be interpreted, administered and enforced so as to have the same effect at all times, regardless of the agency having primary authority with respect to a particular entity or plan.

Finally, I consider this legislation particularly forward-looking in its response to several issues of importance to all Americans. First is the growing long-term care needs of the elderly and disabled. In this connection, the legislation gives individuals and employers a strong new incentive to plan ahead for long-term care expenditures. Also, lest it be overlooked, the legislation addresses another issue that all may one day face, and that is the extent to which the genetics of each one of us may determine our future health status and, thus, our ability to obtain health insurance coverage. In this regard, the legislation prohibits a group health plan or insurer from excluding an individual from enrolling (or continuing to be enrolled) under a group health plan based on genetic information. In addition, genetic information is not to be treated as a preexisting medical condition in the absence of a diagnosis of the condition related to such genetic information.

In conclusion, the Health Insurance Portability and Accountability Act includes vital health insurance protections for American workers and their families. These health insurance portability and accessibility consumer protections are the common sense reforms that Americans have said they need and that Republicans have attempted to enact over the past several congresses. They could have been enacted earlier but were sacrificed on the altar of big government.

In contrast, these common sense reforms were fashioned to avoid the pitfalls of the Clinton plan—that is, the elimination of ERISA health plans, one-size-fits-all mandated benefits and price controls that lead to health care rationing. Rather than trying to create a new health care system, the Health Insurance Portability and Accountability Act seeks to build on those elements of the Nation's employment-based system that work well—namely the fully-insured and self-insured group health plans under ERISA—while at the same time making the important changes to the current system on which there is a consensus. After nearly three decades of debate on health insurance reform the time has come to pass this landmark legislation and seek the President's signature.

Mrs. KENNELLY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today in strong support of a simple premise—when Americans leave or lose their job, they should not lose access to health insurance. The legislation before us will now make that simple guarantee the national standard.

However, I urge Members to resist the temptation to oversell this legislation as a panacea. Many Americans who cannot afford health insurance will still face financial barriers even after this legislation is enacted.

I would also like to express my strong support for two other provisions in the bill—favorable tax treatment for—long-term care health insurance—and accelerated death benefits. I have worked on both of these issues for many years.

Providing incentives for people to protect themselves against the costs of long-term care will not only safeguard the family savings for millions of Americans, but it may also reduce future Medicaid costs. And allowing the

terminally ill to receive the proceeds of their life insurance tax free will assure access to health care for those individuals. I only wish the committee had also included vital consumer protections to prevent the terminally ill from being taken advantage of during a very vulnerable time.

I urge Members to support this effort to make health coverage more available—and to help the chronically ill and terminally ill pay their medical bills.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I will vote for the conference report on H.R. 3103 because it will make a significant improvement in the lives of many and a modest improvement in the lives of millions more.

The conference report will provide important protection to individuals who have been laid off or have retired and are trying to purchase health insurance for themselves.

It will allow workers to maintain their health coverage when they change jobs, even if they or a family member have a chronic health condition.

The report will require insurance companies and HMO's to sell policies to small businesses. They will no longer be able to pick and choose the companies they want to sell insurance to.

Insurance companies and employers will not be able to deny coverage, drop coverage or change more just because an individual has a medical condition.

While I will vote for the conference report, it has serious shortcomings that, quite frankly, were completely avoidable.

The shame of it all is that the Republicans took the Senate bill—a perfectly good bill that passed the Senate by a vote of 100 to 0—and made it weaker. They added an unnecessary, unproven and ill-conceived tax break that will only benefit special interest insurance companies and affluent taxpayers. The Republicans have sugarcoated this tax break by calling it health reform. But, it is nothing more than another tax break.

Republicans, by dropping important protections for mentally ill individuals, have missed a great opportunity to break new ground in the protection of one of the Nation's most vulnerable groups. Given the Domenici-Wellstone amendment in the Senate, the Conferees, if given the chance, could have developed a sensible compromise that would have provided significant protection for mentally ill persons. But the conferees were never given the chance. A Bipartisan compromise on mental health parity was never in the cards. It was largely for this reason that I refused to sign the conference report.

Accordingly, I urge my colleagues to support the motion to recommit. It will restore important protections for the mentally ill.

Mr. Speaker, I support this bill, but not the process that got us to this point. It is wrong that the House Republicans made health reform a partisan issue. The 40 million individuals who are uninsured and the million of others who are locked into their jobs because of chronic health conditions deserve better.

Mr. ARCHER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. THOMAS], chairman of the Subcommittee of Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE] for the purpose of engaging in a colloquy.

Mr. ABERCROMBIE. I thank the gentleman from California [Mr. THOMAS] for yielding and for engaging in this colloquy which is very important to the people of Hawaii.

Mr. Speaker, the question I have for this colloquy is, does H.R. 3103 adversely affect the integrity and purpose of the existing Hawaii Prepaid Health Care Act of 1974?

Mr. THOMAS. I tell the gentleman that H.R. 3103 does not adversely affect Hawaii's current exception, which is in fact the Health Care Act of 1974. In addition to that, the whole question of MSA's that has been discussed is a tax question, and that also does not affect Hawaii's system. The new MSA pilot program is an opportunity and not a mandate affecting employer or individual health insurance plans. I am pleased to say that Hawaii can go its own way.

Mr. ABERCROMBIE. I thank the gentleman from California.

Mr. THOMAS. Mr. Speaker, I would take my own time to mention briefly that I have listened to several Democrats, and I assume we will hear from several more. Their basic message is: You woulda, coulda, shoulda.

I just find it totally ironic. All you have to do is just come with me 3 short years ago. I was not the chairman of the Subcommittee on Health and Environment then. I was the ranking member. The gentleman from California [Mr. STARK] was the chairman. What the Democrats did when they had a majority in the House and the Senate and had a member of their own party in White House is put absolutely nothing on the floor of this House; absolutely nothing on portability; absolutely nothing increasing penalties on waste, fraud, and abuse.

The Democrats talk woulda, coulda, shoulda, about a product.

I want to address myself to my Republican colleagues here. I do not want us to vote against the conference report because minority leader DASCHLE joined us in a press conference praising the work product working positively between the House and the Senate. And I do not want my Republican colleagues to vote against this conference report because the senior Senator from Massachusetts [Mr. KENNEDY] signed the conference report and said some very nice words about all of us working very hard to produce a good product.

I do want my colleagues to vote for this conference report because a name has not been mentioned on this floor who not only deserves to be mentioned but deserves to be praised. That is the senior Senator from Kansas, the chairwoman. NANCY KASSEBAUM is who this legislation belongs to. I think it is a very appropriate capping of an illustrious career to take this positive document and place it before us.

So despite all of the rather petulant-sounding woulda, coulda, shoulda from those people who owned the House, the Senate and the presidency and put nothing on this floor, I would just like to say it was a real pleasure working with chairman of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], and the staff members on that committee who worked extremely hard: Chip Kahn, Kathy Means and Elise Gemeinhardt.

It was a real pleasure working with the Committee on Commerce, Chairman BLILEY, Subcommittee Chairman BILIRAKIS, with Howard Cohen and Melody Harned.

It was a real pleasure working with Chairman GOODLING, Subcommittee Chairman HARRIS FAWELL, and Russ Mueller as a hardworking staff; with Chairman HYDE of the Committee on the Judiciary, and Diane Schacht working very hard.

All of those people should be proud. They delivered. We delivered. We have on this floor a conference report that makes a real change in the lives of millions of Americans. We make health care more affordable, more available, and we did it without a government takeover of health care, which was what they were trying to get on the floor. Thank goodness enough Democrats, who made up the majority at that time, said no. And thank goodness enough Democrats today will support this excellent conference report, we will send it to the President, and the president will sign it.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I rise in support of the conference report.

It carries at long last—it should have been passed years ago. Unfortunately, its time had not yet come because of the strong opposition of special interests.

I'm pleased that it provides mobility in coverage and requires overlooking ill-health problems. It is a first step—there is much more that has to be done—in the field of mental health, for example.

I commend those who brought this bill before the Congress. I look forward to working with them to enforce the opportunity of providing much better access to health care to the people of America.

I intend to support the motion to recommit because that can be one way to make the bill better. If that fails I intend to support the bill.

Mr. STARK. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

□ 1900

Mr. DINGELL. Mr. Speaker, I enjoyed the remarks of my good friend from California. I was so delighted to hear him. It ranks with the conversion of St. Paul. I have not seen any lightning bolts, and I have not observed him riding a jackass, but I do want to say that my Republican colleagues have finally come around and supported Kennedy-Kassebaum. Wonderful. Great news.

Having said that, I commend the gentleman for having had the scales removed from his eyes, and I urge him to support the same kind of glorious advances in other issues. It would be helpful.

I also would say to him that he was talking about the days when the Democrats ran the Congress and now the days when the Republican run the Congress. This is the way things go, but I would say that the gentleman from California has an urgent and an important responsibility in this place and that is to pay the bills.

I was just thinking the other day how nice it would be if my office rent were paid on time, if my suppliers were paid on time, if my telephone bills were paid on time, and if the bills of the other Members on both sides of the aisle were paid on time. And perhaps if the gentleman would just diminish to a small degree these wonderful partisan speeches which he makes and concentrate on paying the bills of the House, how much better this whole operation would be. Then we could address the way the content of legislation is being considered, rather than engaged in these kinds of small pickety pickety polemics in which we have just engaged.

Mr. Speaker, I will be delighted to yield to the gentleman, but I do have a few other words which will be helpful to him and I know he wishes to hear, so I would yield later.

Mr. Speaker, this has been a very curious process, and it will be noted my name does not appear on the conference report, even though I do urge my colleagues to vote for the bill. My colleagues on the other side of the aisle have chosen to move this legislation at this late time, after long waits, with such speed that we were not able to confirm that the bill's language accurately reflected the agreements reached.

Nevertheless, I will take faith that the language truly reflects the bipartisan agreement which Senator KENNEDY so admirably defended. I trust that at least some of the advocates of this legislation have carried out their responsibilities, as they have said, and I do intend to support the conference report.

The bill makes some small, but important steps forward. The portability provisions and the provisions against preexisting conditions will benefit about 25 million Americans. That leaves, however, I would tell my good friend from California, and I am delighted to see him standing because I want him to hear this, some 40 million Americans who do not have health care. I know that he will want to do something other than to just turn them over at some future time to a system which is not providing them health care.

This bill will ensure that people who change jobs can get health coverage from a new employer without preexisting condition restrictions. This will provide peace of mind for workers who lose their jobs by assuring them they can purchase health coverage without devastating penalties and restrictions.

While this legislation does good things, at least one of the things that it does needs to be examined. My good Republican friends have tucked away a couple of nice little provisions here which will hinder the fight against health care fraud and abuse. They will allow repeatedly negligent providers to escape civil monetary penalties, and they will require an unprecedented and indeed most curious advisory opinion process for an intent-based criminal statute, something which I have never seen before.

American taxpayers will now also be asked to pay for inflated claims submitted by doctors and hospitals who are grossly negligent in the billing process. The Congressional Budget Office says that these provisions will cost American taxpayers tens of millions of dollars. What a blow for economy struck by this particular provision.

The advisory opinion requirement is opposed by the Attorney General, the Inspector General of HHS and by the National Association of Attorneys General.

We may now reflect on whether this is good or not and, indeed, we may realize that at some time soon we will regret having included these provisions, and we may again need to address the problems of fraud and abuse which we are creating with this particular language.

Mr. Speaker, I am pleased we are passing this legislation today. I only hope that we can come back soon and continue the process to provide health care for the 40 million Americans who have no health care at all, and who live in raw terror of cancer or emphysema or stroke or heart attack or other illnesses for which they know there is no medical care available.

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

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

Mr. THOMAS. Mr. Speaker, we know to err is human, to forgive divine. I am going to try to elevate the gentleman. I thank him for his vote on the conference report, and in the 105th Congress this new majority will work with him to remove and eliminate those errors that we know he will point out to us, and we appreciate his presence.

Mr. DINGELL. Mr. Speaker, reclaiming my time, I want to thank my good friend for that. It is always a pleasure to deal with him.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from the State of Nebraska [Mr. CHRISTENSEN], a member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, I thank the chairman for yielding me this time.

Listening to the last Speaker talk, I am reminded about, and looking at the Clinton care, the Government takeover of our health care system, almost 2 years ago, when they thought they had the answers to the health care problems in America.

What was their solution? Well, their solution was taking one-seventh of our GDP, taking control of it and putting together a national health care board, regional health alliances, corporate health alliances, putting an ombudsman in here, and having employer mandates involved.

What is our solution? Our solution is private health care, putting together a medical savings account, free market solutions so that we would not have a Government takeover of the health care system as the Democrats have done.

Mr. Speaker, I salute the chairman for his leadership in this area.

Mr. STARK. Mr. Speaker, may I inquire as to the time remaining on both sides?

The SPEAKER pro tempore (Mr. NEY). The gentleman from California [Mr. STARK] has 14¾ minutes remaining, and the gentleman from Texas [Mr. ARCHER], has 15 minutes remaining.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from California for yielding me this time, and I rise enthusiastically to support a bipartisan piece of legislation, Kennedy-Kassebaum, might I emphasize, that brings to the American public a real health reform that deals with portability and preexisting conditions.

Yesterday I received a call from a local businessperson in my district who was saddened and disturbed, wondering whether this legislation had yet passed because his wife was moving to another position and had a preexisting disease.

I am gratified to be able to make that call now and to indicate that we are doing the right thing.

I am glad to say that we are dealing with long-term care insurance and accelerated death benefits that demonstrate the understanding of the Senate and House on some of these issues facing a segment of our citizens often ignored or forgotten. Now AIDS patients can receive their life insurance benefits tax free and actually receive the aid they have paid for to ease their suffering before they depart this world.

Equally so, let me say that I am gratified we now end the health benefit tax discrimination against the self-employed, allowing the same deduction that America's corporations get. Although it is not 100 percent, it is only 80 percent by the year 2006, it is in the right way.

Let me tell my colleagues why I am a little disturbed. I am saddened this bill is silent on the needs of millions of mentally ill Americans, and I hope that we will be able to return to this bill and provide relief for them.

I am also saddened, or at least disturbed, that we would burden physicians with overly burdensome fraud provisions, and I believe we should reconsider. We should get rid of fraud, waste, and abuse, but it certainly should not be at the expense of making criminals of physicians that provide us good health care across the Nation.

I am saddened that the last minute special interests found that they could extend a patent for the drug Lodine, which hurts millions of Americans who now cannot get low-cost generic drugs because of this extension.

I do, however, want to thank the bipartisan effort of my colleague from Texas, Chairman ARCHER, and the gentleman from California, Mr. STARK, and all those who have worked so hard on this legislation, to be able to say that now we can tell America and they have the potential of good health care, and certainly we will remember those who are attacked with preexisting conditions.

Mr. Speaker, I rise to offer my full support for this conference report. Regardless of whatever else this Congress has failed to do, passage of this conference report is of the utmost importance and necessity. Every portion of this legislation will have a positive impact on the lives of millions of Americans and I applaud the sometimes strained but ultimately successful bipartisan efforts to see this bill through during this session.

The immediate effect of this bill will be tremendous. Yesterday, I received a call from a businessman who lives in my district. He was worried because his wife will soon be changing jobs and they were concerned that a recent potential medical condition would not be covered by the new policy unless this bill was soon enacted. He is a prime example of the good that this legislation will bring about, making sure that individuals and families do not fall through the health insurance cracks and suffer physical, mental, or financial distress.

I believe that the provisions dealing with long-term care insurance and accelerated death benefits demonstrate the understanding of the Senate and House of some of the issues facing a segment of the citizenry often ignored or forgotten. Now, AIDS patients can receive their life insurance benefits tax free and actually receive the aid they have paid for to ease their suffering before they depart this world.

And I am glad to see that this body is moving toward ending the health benefit tax discrimination against the self-employed. Why should these individuals not get the same deduction as America's corporations? Although the deduction is not 100 percent and although the 80 percent is not reached until the far-away year of 2006, it is a first step in the right direction. Maybe another day will allow us to increase this rate and implementation of this idea, but for now, I will celebrate along with thousands of self-employed individuals in my district and across the country.

While I am saddened that this bill is silent on the needs of millions of mentally ill Americans, some relief must be given. Further, the overly burdensome fraud provisions against physicians should be reconsidered and we must fix that in a later review of the bill. Also a last-minute special interest extension of a patent for the drug Lodine hurts millions of Americans who now cannot get low-cost generic drugs that would do the same thing—this must be remedied.

This legislation has been a long time in coming and is something that should have been done many years ago. No longer will people be trapped in undesirable jobs because they or a member of their family suffer from a medical condition. And no longer will spirited entrepreneurs be wrongly penalized for their courage and chutzpah in striking out on their own. Mr. Speaker, this is a landmark day for the millions we represent and for this Congress as well. Support this report and in doing so, support the needs of the American people.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

A few months ago I was going store to store visiting constituents in the lovely town of Effron, PA, in Lancaster County, the target of many, many thousands of tourists during the course of a year, where the cloisters and the people who man them and woman them daily do their routines.

One lady stopped me and we started talking about health care. I will not name her, I will call here Mrs. Calabash. Mrs. Calabash asked me what would happen if her husband, who was presently employed, would lose his job; were there any prospects for making sure that health care coverage would follow him into the search for a new job.

I told her we are working on it, Mrs. Calabash, and before this year is out, I told here we were going to be voting on portability, the transferability of insurance coverage, access to insurance coverage, for someone like her husband.

Mrs. Calabash thanked me, and now here at last on this particular evening I will be able to fulfill my promise to her. Portability, which never was accomplished by a previous congress, which was not even contemplated until the Republican Congress undertook the leadership of this House, now is at hand.

All I can say is I am happy to report that to Mrs. Calabash. This one is for you, Mrs. Calabash, and now, good night, Mrs. Calabash.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman and the ranking member.

Mr. Speaker, this bill tears down one of the biggest barriers that stand between Americans and health insurance coverage. I am glad to be part of legislation and of passing legislation that guarantees millions of Americans insurance coverage as they move from job to job. This bill also prevents discrimination against those individuals with preexisting conditions. This is a bipartisan effort that deserves enormous commendation.

Unfortunately, Mr. Chairman, this bill has left 5 million Americans with mental illness behind. I had offered the House amendment in the Committee on Commerce to this bill to guarantee those with mental illness the same coverage as a person with any other illness. Unfortunately, it was ruled out of order.

Those mental health provisions, however, were included in the health insurance reform bill in the other body. This conference report fails to include mental health parity language and, therefore, to provide important protections for mental illness.

Mental illness is just as serious as hearth disease or cancer, yet insurers have for years not offered complete coverage for the treatment of mental illness. Nearly one out of four adults suffer from some kind of severe mental illness in the United States each year, yet 95 percent of the major insurance companies in our country have limited coverage for psychiatric care.

Left untreated, mental illness can lead to some of our Nation's most

pressing social problems. For example, 32 percent of the Nation's homeless suffer from some type of mental disorder, 12 million children suffer from some type of mental disorder also.

Mr. Speaker, let us pass this bill, but in the future we must address the issue of mental health parity. I am disappointed we did not do so when we had this opportunity, but perhaps in the next session of the Congress this should be a top priority and we should all do it in a bipartisan way. One out of five Americans is affected by this problem.

□ 1915

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I spoke earlier this evening on the provisions against fraud in the bill. And to go back over these, they establish a national health care fraud control program and extend antifraud rules for Medicare and Medicaid.

There are a number of good things in this. If there is fraud and abuse in the system and a senior citizen would identify this, the Secretary can provide a reward to those seniors who have identified the problem.

I have practiced in the system. Unfortunately, there is some fraud and abuse in the system among all practitioners, and so I would enter into a colloquy with the gentlewoman from Texas [Ms. JACKSON-LEE] if she would care to enter into a colloquy, because I think that this bill is a reasoned approach to something that is very important to help reduce health care costs, and that is the fact that the Inspector General has identified fraud and abuse in the system.

One of the things that we have found is that in the bill when we are talking about criminal penalties, we are talking about knowing and willful, and so there is a high standard for practitioners to receive whatever type for criminal procedures. And then for civil procedures, there must be a negligent behavior and it must be an action that is in reckless disregard of the rules or of health.

So I would yield to the gentlewoman from Texas if she would care to tell me exactly what is in the bill in these areas that concerns her.

Ms. JACKSON-LEE. Mr. Speaker, if the gentleman would yield, I thank the gentleman for his kindness and I noted the distinction and certainly do appreciate at least one point that the gentleman from Iowa [Mr. GANSKE] made. I think we all can agree that we should attempt to eliminate fraud and abuse and certainly weed out from our practitioners any suggestion that they might manipulate the system.

Might I say that I look upon the medical profession as one over all whose chief responsibility is to service the needy public with respect to its health needs. I do believe that even though we have civil and criminal penalties distinguished, that we still have a criteria that raises much of what physicians may do to a criminal level, even though we have a standard of reckless abandonment or a higher standard of negligence. I think we can revisit it and still get a fraud and abuse and not have the high penalties that we have that would discourage many of our physicians who practice in the inner city and rural communities.

Mr. ARCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I simply ask a question of the gentleman from Iowa [Mr. GANSKE]. I understood the gentlewoman from Texas to say that this bill would make criminals out of good doctors, and I would like for the gentleman to respond to that since he is a physician himself.

Mr. GANSKE. Mr. Speaker, if the gentleman would yield, the bill I think is fair. It addresses the issue of reducing fraud and abuse in the system, and yet it establishes fairness for practitioners.

In some of the original legislation, there were some concerns but they have been worked out among various groups, so that provider groups, I think they feel in general that as long as there are knowing and willful provisions in there, in the criminal sections of the fraud and abuse sections, that this is an acceptable standard and a fair standard.

Mr. ARCHER. Mr. Speaker, reclaiming my time, so the gentleman would say, then, that this would not make criminals out of good doctors?

Mr. GANSKE. Mr. Speaker, That is exactly my understanding of this bill.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, it is a rather unique bill where all the Democratic conferees come out here, did not sign the bill, hold their nose, and they are going to support it. I know why that is. There are 24 provisions that really are troublesome in this bill and the committee never met and dealt with them.

One is the whole question of mental health parity. What that issue means is that if the patient has a mental illness and their insurance plan pays 80 percent for surgery for cancer or a brain tumor or something else, they have to pay 80 percent on a mental health claim.

Right now most plans pay 80 percent on some kinds of things and 50 percent for mental illness. People with mental illness in this country are discriminated against by the insurance industry and the Senate voted it and the House refused to consider it and it has been left out of this bill. There will be a motion to recommit. I urge all of my colleagues to vote for that motion to recommit because that will reinsert parity for the mentally ill.

The gentleman from New Mexico [Mr. RICHARDSON] says one out of five people in this country are affected by mental illness and that is an issue that ought to be dealt with. There is no excuse for us letting the insurance companies discriminate against people simply because they have mental illness.

No worse, or equally bad, in this bill is the section on administrative simplification, which aroused the insurance companies to have an insurance data that can use your Social Security number. This is the day that we voted to give the insurance companies the right to use your Social Security number and gather all the information in a clearinghouse for which there is no privacy protection in this bill.

Now people want to think that it is called "administrative simplification," but simply what it does is give the insurance companies the ability to shift information back and forth, use it against applicants for life insurance, auto insurance, homeowners insurance. Anything they want to do, they can do in this bill because there is not one single shred of protection of your privacy.

I raised this issue in the Committee on Ways and Means. The chairman of the subcommittee who stands up here and says, "It is such a wonderful bill," said he would deal with it. It did not get dealt with. In fact, it went in the conference committee and came out worse. He is less protected.

Doctors could be required to give a patient data of encounters. That means if a patient goes to see the doctor and tells the doctor anything that has gone on in their life, the doctor could be compelled by the insurance company data system to release that information because there is nothing, nothing in here that protects the doctor-patient relationship.

I think people had real qualms on that conference committee about signing it because in many ways, although we help a few people with the whole issue of portability, if we read the bill we find that is not very good, that we are taking away people's privacy and we are discriminating against the mentally ill.

Mr. Speaker, I urge Members to vote for the motion to recommit.

Mr. ARCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, it is ironic to me as I listen to the arguments on the other side of the aisle from people who will vote for this bill in the end, make no mistake about it, most of them will vote for this bill because they know that it moves in the right direction. But when we first debated this bill on the floor of the House, what we heard from the other side of the aisle was, "Do not add anything to Kassebaum-Kennedy. We want a clean bill. Do not

expand it." And now they are saying we have not expanded it enough.

This seems to me as very, very strange, and what it appears is that it is the moment that counts, not the policies, not what we are doing. it is the moment. And if they cannot be satisfied at that moment about everything, they are going to complain.

We have a good bill here. It is a bill that, unfortunately, we had to drop malpractice out, but the trial lawyers' influence in the Senate caused that to have to be dropped out. That is too bad because that, unfortunately, drives up the cost of health care.

We had other provisions for small businesses that could unite nationally to have competitive insurance, and they forced that to be dropped out, but this is a good bill, Mr. Speaker.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, it was more than a year ago when a bipartisan group first offered a bill to expand access to health care for millions of Americans, and over the past 18 months we have worked to build a bipartisan coalition to make modest changes so that if someone changed jobs, lost their job, has a preexisting condition, they will never lose their health insurance.

For 9 months, Bob Dole and NEWT GINGRICH and the Republican leadership would not let the Kennedy-Kassebaum bill to come to a vote on the House floor. It is not found in the Contract on America. It was not part of their priority. They refused to take any action until the President of the United States stood there in his State of the Union Address and called on them to make health care portable for this country.

When public pressure finally built to the point where Bob Dole had to act, last April, the Kennedy-Kassebaum bill passed, as my friend from Washington State said, 100 to nothing. It could have been sent to the President the next day and millions of working families would have been spared the pain and the misery of losing their health insurance. But instead, we had to deal with MSAs, medical savings accounts, even though every credible publication has said they are designed for the health and the wealthy.

What we have to understand is that this is about the lives of real people. Somewhere in America today, Mr. Speaker, there is a father who has been offered a better job to take care of his family, but he cannot take it because his son has diabetes and his health insurance will not go with him. Somewhere in America today there is a single mom who goes to bed every night praying that her kids will not get sick because she has a preexisting condition and she cannot get health insurance. No company will cover her.

These people are not strangers. Every one of us knows these people. We work with them. We worship with them. We see them in our grocery stores and in our school yards.

All over America today parents are working hard, sometimes working two jobs, three jobs to give their kids a better life. They deserve to have the peace of mind to know that if they change their job or they lose their job or if they have a preexisting condition they will never lose their health insurance.

This bill takes an important step in that direction, but it needs to go further. We should have accepted and it is a shame that we are not accepting the Wellstone-Domenici compromise. It is a provision that provides parity between lifetime limits for mental illness and lifetime limits for physical illnesses.

People with mental illness suffer enough. They should not be made to feel ashamed when they ask for help. Many of them are struggling to understand what is happening to their minds and to their bodies. They struggle every day with a pain that is every bit as real and every bit as punishing as a physical ailment.

Many times it is not just the individual who is affected, it is the whole family. Just think of the pain of a young boy or a young girl or a parent, the pain they must feel as they watch their mother or their child or their father struggle with an illness that throws them into a darkness that is so deep there does not seem to be a way out.

Mental illness is hard enough to live with. They should not be forced to face the additional burden of discrimination under the law. They should be treated with the dignity and with the respect that they deserve. The Wellstone-Domenici compromise moves us in that direction.

Overall, this is a good bill, but we can make it better if we vote for the motion to recommit. I urge Members to stand with Senators WELLSTONE and DOMENICI. Say "shame" on the insurance companies that play games with people's lives. Support the motion to recommit and give all of our families the security that they deserve.

Mr. ARCHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the gentleman has made the statement that every publication says that medical savings accounts are just for the healthy and the wealthy. The facts are that I do not know a one. The only comprehensive study that has been done was by the RAND Corporation and they said just the reverse. There was no adverse selection.

There is not one shred of evidence that I know of that MSAs are only for the healthy and the wealthy, but we can say anything we want to on this floor. Clearly, it does not have to be supported by evidence.

Let me also say that it is ironic to me that on the one hand the statement is made, all we want was Kassebaum-Kennedy, do not add anything to it. That is what the President said right in this room in his State of the Union Address. Do not add anything. Now they are complaining because something has not been added to it.

They had the opportunity then. They take a position today totally contrary to what they took in the debate when this bill was before the House.

They had the opportunity to offer a motion to recommit with mental health parity in it. What was their motion to recommit? Kassebaum-Kennedy of the do not expand it, do not change it. Do not give anything else to any additional people.

□ 1930

Do not do anything on fraud and abuse. Do not do anything on malpractice. Do not do anything to help small business get lower premium costs for their employees. Do not give MSAs where the individual can control their options. Now they want to add more.

I guess consistency, I remember many years ago when the chairman of the Committee on the Judiciary stood in the well and said, consistency is the hobgoblin of small minds. Perhaps he was right, but I believe consistency is important.

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

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I plan to vote for the conference report to H.R. 3103 because it provides needed relief for Americans by guaranteeing portability of health insurance and limiting pre-existing condition exclusions. This is an important step in improving access to health care for individuals who were previously denied coverage. I am pleased to see the Congress come together to ensure these minimal protections. However, I remain disturbed by important provisions left out of the conference report and by harmful provisions in the bill which need to be corrected.

Mr. Speaker, for the past 3 months I have been trying to persuade my colleagues to include the Senate provisions on parity of mental health coverage in the final version of H.R. 3103. These provisions were inserted in the Senate version of the health insurance reform bill by an overwhelming vote of 68 to 32. While the Senate conceded to a compromise on the controversial House-passed medical savings accounts provisions, there was no comparable compromise on the mental health parity provisions. These is absolutely no relief in this bill for the millions of Americans who suffer from mental illnesses. It is with great sadness that I am voting for health care legislation which completely ignores this vulnerable segment of our population.

I want my colleagues and the American people to know that I'm not going to give up

on this issue. We have a majority of Senators who have gone on record supporting parity coverage for mental illness. I was joined by over 100 Members of Congress, from both political parties, in a letter to conferees supporting the Senate provisions. We will continue the fight against discrimination by insurance companies of people with mental illness and I believe we will ultimately achieve a victory.

In addition, I am very concerned about a provision in the conference report that threaten the continued privacy of our medical records. As Americans we cherish our fundamental right to privacy. Over the past few decades we have seen this right chipped away by technological advances we could never foreseen. We have all seen how legislation ensuring the continued right to privacy has not kept up with these advances. This conference report strikes another blow at our privacy by requiring administrative simplification of medical records without providing adequate protections. The bill imposes national standards for the collection and distribution of data for billing purposes and requires the use of a "unique identifier" for medical records. Shockingly, it does not prohibit the use of Social Security numbers for this identifier. If Social Security numbers are used for medical records' access virtually anyone will be able to screen our most private medical history. This must be addressed either through corrective legislation or Administrative action.

Mr. Speaker, I'm not going to vote against this bill and deny relief to so many Americans just because of these concerns. But, I'm distressed that we are being forced to swallow these anti-privacy provisions and I think its shameful that the leadership has left out so many of our needy citizens who need adequate insurance coverage. I urge my colleagues to take my concerns to heart and work with me in the future to correct these serious flaws.

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

Under the rules, my motion to recommit is not debatable. I would urge that my colleagues on both sides of the aisle support the motion to recommit the Kennedy-Kassebaum agreement to conference, a conference which has never existed, and to work out an acceptable mental health amendment along the lines of the Domenici-Wellstone mental health parity compromise.

The gentleman from Texas is right. We asked them not to load up the original Kennedy-Kassebaum bill with Christmas tree giveaways to the drug companies, giveaways to Golden Rule Life, all of whom are big contributors to the Republican Party. But as long as that has been done and Members on this side are going to vote for the bill, I pose the question on the motion to recommit as to why the Republicans would deny mental health benefits at no cost. You have to explain that to every family who has a mental health illness in the family.

For relatively no or little cost at all, you are denying mental health coverage to millions of Americans. I do not know why you do that. There is no good reason. There is no good reason at all except if you are trying to bail out the insurance companies because most of your staff used to be lobbyists for them.

But what I am suggesting to you is that for less than 16 cents a thousand dollars of premium you can add mental health benefits to every employee in this country. Why you would deny that escapes me. Why you would not take away the fear that somebody with a mental health illness would get the same treatment that somebody with a physical illness is, to me, obscene just to deny that for whatever reason.

There has been no good reason offered to deny these benefits. Private insurance premiums would rise less than sixteen one-hundredths of a percent; $5 a year in deductibility. Yes, you will have different opinions from the health insurance industry for whom your staff have been captives, but the truth is that if you were willing to provide fair coverage and willing to go against the interests of the big contributors to your campaigns, you would do the right thing for the American people.

You will have to face every mental health group in this country, who will say it is the Republicans who have denied mental health coverage to millions of American workers for the sake of big campaign contributions. That, to me, is an obscenity that I would not want to face in the political arena.

The small businesses that you have helped have been limited. The bailing out of one drug company, which is also in the motion to recommit, is another example of payoffs from big drug companies. Is there no humanity?

Your health bill was yesterday, when you denied access to any help to a million children. That was your health reform. Now you are going to deny mental health coverage to the Americans who need it. All I can say is it is a shame, it is a travesty. Yes, people will vote for the limited expansions you give to less than 400,000 people a year, but no, why would you deny mental health coverage to these people?

Vote for the motion to recommit. You can do the right thing back in conference quickly and then your bill might have some credibility.

Mr. ARCHER. Mr. Speaker, I yield myself 30 seconds in order to engage in a colloquy with the gentleman from California. I understand the gentleman from California wishes to ask a question about what possible impact this bill might have on Medicare beneficiaries.

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

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

Mr. STARK. Mr. Speaker, if the distinguished gentleman is referring to the MSA section of the bill, title III, subtitle (a), it is my understanding that Medicare beneficiaries are not permitted to open an MSA account. Is that the gentleman's intention?

Mr. ARCHER. Yes, Mr. Speaker, no Medicare beneficiaries are permitted to enroll in MSA accounts.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I am using this time during debate because, as the gentleman from California [Mr. STARK] said, there is no time to debate the motion to recommit. I have just seen the motion to recommit, and he was speaking about the mental health provision. I do think Members need to understand just what has gone on here, notwithstanding the absolutely outrageous statements that the gentleman from California made, and perhaps he got carried away with his own "eloquence."

To review the bidding, there was no mental health provision in the bill that passed the House. We tried to work it out. There was no compromising. Folks were not willing to give on the Democratic side.

On the Senate side, there was an amendment that was accepted by a voice vote and immediately following the passage of the bill, 100 to nothing, the chairwoman and the ranking member, Senator KASSEBAUM and Senator KENNEDY and others, went to the mike and said, "We are probably going to take this out in conference." Because everyone knew the amendment that was passed was simply an unworkable piece of legislation.

We sat down in conference and read it and realized it was totally unworkable. However, the House, not having any provision, said, "Senate, work it out. We will accept whatever you can work out. It was your provision; you folks come to an agreement. We will accept what you can work out."

One of the major discussions throughout the conference was the Senators talking among themselves about what the mental health provision was going to be. The chairwoman from Kansas offered Senator DOMENICI the agreed-upon mental health provision and the Senator said, "I choose nothing."

It was the Senate's choice, notwithstanding the vitriolic statements from the gentleman from California. What is in the bill is the Senate's choice. It was a Senate provision. The conferences said, let the Senate work its will.

What is before this House is a conference report containing the Senate's will on mental health. That is what is in front of us. The motion to recommit to change the Senate's will is opposed by this gentleman and opposed by everybody on this side because that is not everything that is in the motion to recommit. The gentleman has other

provisions he chose not to speak about. Vote "no" on the motion to recommit.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HASTERT], who played such a big role in working this conference report to where we could get it on the floor.

Mr. HASTERT. Mr. Speaker, I thank the gentleman very much for the time.

It wonders me when I listen to some of the arguments on the other side that insurance companies are holding down the mental health parity issue. I will tell my colleagues, the insurance companies would love to have mental health parity because they would like to have those premiums coming in.

The gentleman from Washington, who says it is terrible that we do not have mental health parity in the bill, I guess if I was a psychiatrist I would think it was terrible also. But that is a provision that we do not have in the bill.

I will tell Members why. There are two groups of people who lose when we put mental health parity in this bill. I am talking about billions of dollars of cost, not millions, not thousands, not hundreds, but billions of dollars of cost.

First of all, to people who buy insurance policies, if mental health parity is in that bill, it would cost the moms and dads, the middle-class workers in this country an increased insurance cost which would be astronomical, so there is a good reason that that is not in the bill.

The second good reason is that the employers who provide health care and mental health care to their employees all of a sudden would have a choice. Your choice is, Mr. Employer, that you will start to increase your health care costs astronomically because you are including a provision in here that has never gone through a committee in this House, did not go through a committee in the Senate, but somebody would like to throw it in. What happens, the employer says, "I always provided mental health for my employees, but the cost is so high I am not going to do it anymore."

Who loses out? The people that lose out in that provision are the people who for years were able to cover themselves with mental health policies but now, because of a provision that was put in in the Senate at the last minute, without debate or anything else, on a whim, was knocked out in conference committee.

Who wins because of that? People who have to pay the bills, my colleagues, not the gentleman from California, who advocated a big Government health care takeover just 3½ years ago or 4 years ago, or the gentleman from Washington, who advocated that we do the Canadian health care plan where the Government does everything and we lose control of what happens in health care in this country.

So, Mr. Speaker, there is a reason things happen around here, a good reason. I think we have a bill before us today that has some provisions in it.

I, again, was wondering why my good friend who is the minority whip from Michigan, he said we are just denying moms and dads this ability to cover themselves. I remember distinctly that my good friend from Michigan denied the Rowland-Bilirakis bill from coming forward in this House 3½ years ago, when we would have given portability to moms and dads who wanted to move to better jobs, that wanted better opportunity. But they were denied that because some Members in this House wanted to present a big Government takeover of health care, and they were afraid that the Rowland-Bilirakis bill would undercut that.

It is 3½ years later, Mr. Speaker. There is a bill here that will give people portability in health care. It will give the doctor the ability to tell his patient what the cost of a service is. That patient can choose, with his medical savings account, whether he wants to go to this doctor or that doctor or that doctor because he knows what something costs. He knows what the problems are and he gets straight answers because he makes that decision, not a third party payer someplace.

To the gentleman from California, that is going to save health care costs in this country billions and billions of dollars, something that you wanted to deny when you wanted big health care to take over in this country. The barber in Illinois that told me awhile back that he wanted deductibility for the cost of his health care from his income tax, we do that in this bill. We do a lot of good things for people. It is a good bill, and I think it deserves the support of this body.

I thank the chairman and the chairman of the Committee on Ways and Means and the chairman of the Committee on Commerce and the Senate staff and all our staff who worked to make this thing happen.

Mr. BENTSEN. Mr. Speaker, I rise in strong support of this health insurance reform conference report. I am pleased that Congress has put aside partisan politics and found agreement on these commonsense steps that will help millions of people to buy and keep health insurance.

This legislation is exactly the kind of assistance the American people want and need from Congress to address the challenges they face in their daily lives.

It will help employees who change or lose jobs to continue to buy health insurance for themselves and their families. It will help people with preexisting health conditions—those are most likely to need health care—to buy insurance. It will help self-employed people to buy health insurance by increasing the tax deduction for the self-employed from 30 to 80 percent. And it will help senior citizens and others needing long-term care to afford these very expensive services by providing necessary tax relief.

These modest reforms will give peace of mind to millions of families without imposing new costs on businesses and government and without adding to the bureaucracy. This is an example of what Congress can do when we put common sense and the public interest first.

As a sponsor of the Democratic version of this legislation, I am pleased that the conference agreement closely reflects the priorities that we offered earlier this year. It focuses on reforms that do have broad, bipartisan support and that will make an immediate, positive difference for millions of people and it takes a responsible, slower approach to testing new approaches such as medical savings accounts. I applaud those who developed the compromise on MSA's and their willingness not to let this controversy hold up other provisions in this legislation.

I want to highlight several provisions of this conference report.

This conference report will increase the tax deduction for the health insurance for the self-employed from 30 to 80 percent, a critical provision in the Democratic substitute that affords the same treatment to the self-employed as we do to corporations. For many self-employed people, this tax deduction will make health insurance more affordable and cost-effective.

The conference report prohibits discrimination against people with preexisting health conditions and guarantees that workers can keep their health insurance if they change or lose their jobs. No longer will Americans fear losing their insurance due to a medical condition such as diabetes or breast cancer. Health insurance companies would be prohibited from excluding coverage of a preexisting condition for more than 12 months. This 12-month period would be reduced by the time period for which the individual was covered under a previous group-based plan. For individuals who lose their jobs, health insurance companies would be required to offer the choice of two plans. To protect individuals, these plans would have to be priced at a level similar to other popular individual plans.

This conference agreement requires the renewal of health insurance coverage for those Americans who pay their premiums. This consumer protection will ensure that families can continue to keep their health insurance as long as they continue to pay premiums for this coverage.

This conference report also provides new incentives for Americans to provide for their long-term care. With the average cost of $40,000 per person for long-term care services, it is critical that we provide relief for American families. This legislation allows taxpayers to deduct qualified long-term care expenses, including premiums for long-term-care insurance, as an itemized medical deduction. This legislation also permits terminally ill and chronically ill patients to receive their life insurance benefits prior to death without paying taxes on such benefits. Both of the tax provisions should help American families to deal with the costs of medical treatments.

The conference legislation includes provisions to discourage fraud. I strongly believe we should not tolerate fraud and abuse in our medical system. This section ensures that

medical professionals who commit fraud will be prosecuted for these acts, without imposing unnecessary burdens on medical providers.

Mr. Speaker, I urge approval of this commonsense, bipartisan, and long-overdue legislation.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today to express my support for the conference report to H.R. 3103, the Health Coverage Availability and Affordability Act. Passage of this conference report will ensure that Americans have access to health care coverage.

The conference report before us will bring about much needed reform to the insurance industry. It address such important issues as portability and pre-existing conditions. Individuals will no longer have to remain in a job they do not like in order to maintain insurance coverage. The portability provisions will ensure that individuals will not lose their coverage if they get sick.

The conference report also contains a 4-year demonstration project for tax deductible medical savings accounts for small business, the self employed, and the uninsured. The medical savings accounts will put the individual in charge of his or her health coverage.

Another important provisions of the conference report is the self-employment deduction for health insurance expenses. Under this provision the self-employed will be able to deduct a certain percentage of their health insurance expenses from their taxes. The deductible will increase from 30 percent to 80 percent in 2006.

Mr. Speaker, the time has come to enact meaningful reform of our insurance industry. This conference report does that. It is the result of many weeks of bipartisan negotiations. The provisions contained in this report will enable the American people to feel confident about their insurance coverage, while at the same time keeping it affordable. I urge my colleagues to support passage of this conference report.

Mr. TORKILDSEN. Mr. Speaker, I rise today to urge my colleagues from both sides of the aisle to join me in support of the Health Coverage Availability and Affordability Conference Report.

Statistics show that under current law, up to 25 million Americans across the country are denied health insurance coverage because of pre-existing conditions. Additionally, some 4 million workers remain "job-locked" because of the lack of health insurance portability. This is unacceptable.

It is inconceivable that, under current law, people with pre-existing medical conditions—whose need for quality health care can be immediate—can be denied health insurance. People should not have to live in fear that a change in jobs, or job loss, could deny them continued health coverage.

This bill is a bipartisan and common-sense solution. It doesn't solve every problem, but it is a shining example of what can be accomplished through compromise.

The key to health care reform is choice. Americans should be free to choose what type of insurance they want—and which doctors they wish to see. Medical Savings Accounts are one of the most innovative new choices in health care, and it is encouraging that the House and Senate were able to reach a compromise to institute MSA's on a 4-year trial basis. While MSA's clearly are not right for everyone, they are a bold new approach to health care reform. MSA's are one more choice for people who need health insurance.

This Conference Report is also a major win for the self-employed, in that it increases the percentage of their health insurance expenses that they can deduct from 30 to 80 percent. Under current law, the self-employed are permitted to deduct a mere 30 percent of their health insurance costs, while corporations can deduct 100 percent. This is unfair. People who are self-employed should not be discouraged from buying insurance because they are forced to pay a de facto tax penalty. We must eventually increase this deduction to the 100 percent enjoyed by corporations, but for now, 80 percent is a great improvement.

The Health Coverage Availability and Affordability Act does not involve a government take-over of health care. It does, however, solve specific problems in the current system and institutes new ideas to help all Americans—young and old—obtain health coverage.

I urge my colleagues on both sides of the aisle to support the bill and pass this much-needed reform.

Mr. FAZIO of California. Mr. Speaker, I rise to express my strong support for the conference agreement before us.

The health insurance reform conference agreement will help tens of millions of Americans keep their health insurance when they switch jobs, regardless of their health condition. In addition, the conference agreement contains an increase in the deductibility of health insurance for the self-employed.

This conference agreement addresses several fundamental problems in our Nation's health insurance system. First, if an employee who has been covered by an employer's health plan for at least 18 months loses his or her job, or switches to a job that doesn't provide insurance coverage, that employee will be able to buy insurance without exclusions for pre-existing medical conditions from any firm in the state that sells insurance.

I believe that this agreement represents an important first step in reforming our Nation's health care system. The General Accounting Office has found that about 21 million Americans are uninsured because of pre-existing conditions. The common-sense portability provisions contained in this bill will make a real difference in the lives of these uninsured workers.

So, too, will the provisions governing the deductibility of health insurance costs for the self-employed. Greater deductibility means that those who already are insured will find it more affordable. Those who lack coverage will more easily be able to budget for this necessary expense.

Greater deductibility also ensures greater fairness in our tax code. Corporations have long enjoyed full deductibility for their employee's health insurance. This provisions will narrow the gap between the self-employed and corporate employers, thereby reducing operating expenses for America's small business men and women and increasing the number of working families covered by health insurance.

I am glad that the conferees, particularly Senator KENNEDY and Congressman ARCHER, were able to negotiate a compromise on the medical savings accounts (MSA's) issue. The compromise agreement on MSAs reflects the concerns that I, and many others, had about the scope of MSA coverage. In addition, the compromise requires that Congress re-visit the MSA issue in four years to determined whether it should be extended or curtailed.

This conference agreement presents us with an opportunity to enact health care insurance reform legislation that will benefit millions of hard-working Americans. I urge my colleagues to vote YES on the conference agreement.

Mr. REED. Mr. Speaker, I rise in support of passing meaningful and essential health care reform today.

The conference agreement on H.R. 3103 is a positive first step to expanding access to health insurance for Rhode Islanders and Americans across the nation. This legislation prohibits insurance companies from dropping coverage when an individual changes jobs or denying coverage because of a pre-existing condition. In addition, this bill increases the tax deduction for the self-employed from 30 percent to 80 percent by 2006.

Enactment of this common-sense health reform legislation has been delayed several months due to the insistence by the Republican Majority to attach many controversial provisions, including Medical Savings Accounts (MSA's), to the bill. The conference agreement contains a compromise that would make MSA's available to a limited population for four years. While I am concerned about the potential impact of this provision on our health care system, I am pleased that Congress must pass new legislation to continue or expand this MSA demonstration project.

I am also disappointed that the conference agreement does not contain the Domenici-Wellstone amendment adopted during Senate consideration of this legislation. This amendment would have required insurers and health plans to provide coverage for mental illness equal to that provided for physical health conditions. It is my hope that future Congresses will address this essential issue.

The steps to correct our health care system in H.R. 3103 is minimal, but needed reform which will alleviate the anxiety and suffering of many hard working families. However, more needs to be done to make health coverage affordable and available to more Americans. I remain committed to enacting comprehensive, systemic health care reforms in order to slow cost increases in health care services and ensure that all Americans have access to the quality health care they need.

Ms. PELOSI. Mr. Speaker, I rise in support of the conference report on the Kennedy-Kassebaum health care legislation. While I would have much preferred the bill adopted by the Senate, the advantages of this conference agreement outweigh the drawbacks.

This bill will be very helpful to Americans with preexisting conditions who may need to change jobs. It will allow them to move from one group insurance plan to another without coverage being excluded because of a preexisting condition. It will also allow people who lose their jobs to buy individual insurance without exclusion because of a preexisting condition.

The bill contains an important provision which states that the results of genetic testing cannot be used as a finding of a preexisting condition. This is an important first step in protecting individuals from discrimination based on new genetic testing made possible by advances in biomedical research.

The bill also expands on a provision important to me and my district. Several years ago, I introduced legislation which became law extending continuation group health coverage under COBRA to individuals found to be disabled at the time that they stopped working. Under the provision, these disabled individuals could remain in group coverage for 29 months—the time it takes to qualify for Medicare coverage. This bill improves this benefit by extending continuation coverage for those that become disabled during their initial COBRA coverage until they are covered under Medicare.

In addition, this bill includes an important provision which allows individuals with terminal illness to receive accelerated death benefits—often called viatical settlements—as tax-exempt benefits rather than income. This provision would apply to settlements received after December 31, 1996.

I am disappointed in the conference agreement for what this bill does not do. It does not make health insurance more affordable. In fact, the medical savings accounts portion of the bill—by taking the healthy and wealthy out of the insurance pool—may make health insurance more expensive.

In addition, this bill does nothing about the ability of insurance companies to exclude types of treatment or cap coverage. The bill also eliminates the Domenici-Wellstone mental health parity provision and even a scaled-back compromise to expand mental health coverage. Responding to these needs is also part of what should be done to provide health care security.

While this bill will help about 400,000 Americans with preexisting conditions who will benefit from the portability provisions, it will do nothing for uninsured Americans. The number of uninsured is projected to increase by another million in the next year. The welfare bill, passed by the House yesterday, will add even more people to the ranks of the uninsured.

Mr. Speaker, I urge a "yes" vote. Yet I am also compelled to comment on how much this bill has been weakened from the Kennedy-Kassebaum bill adopted by the Senate. We have a long way to go before achieving true health care reform.

Mr. MATSUI. Mr. Speaker, I would like to express my disappointment with the failure of the conferees to include a provision addressing the ongoing blatant insurance discrimination against the treatment of mental illness.

Millions of American men, women, and children, from every ethnic, economic, and age group, suffer from mental illness. We have made great progress in recent years in diagnosis and effective treatment of these debilitating and sometimes life-threatening illnesses. Yet persons with mental illness must struggle every day not just with their illness itself, but also with the refusal of the Nation's insurance industry to end discriminatory coverage of their treatment.

There is no reason for this discrimination, other than stigma and ignorance. Study after study has shown that parity coverage would save lives and money. The National Mental Health Advisory Council reported to Congress in 1993 that parallel treatment of severe mental and physical illness would actually save the national economy more than $2 billion every year.

In April, the Senate adopted by a vote of 68–30 an amendment offered by Senator DOMENICI and WELLSTONE which specified that insurance plans had to impose the same limits on mental illness as physical illness in areas such as patient cost sharing, drug coverage, hospital stay duration, and annual and lifetime caps. It did not prevent businesses from managing mental or physical health care. All it said was that insurers must apply the same restrictions on mental health care as they do to physical health care.

During conference, Senators DOMENICI and WELLSTONE scaled back their proposal to require equal coverage only for lifetime and annual caps. The Congressional Budget Office estimated that the revised proposal would cost employers no more than .16 percent in additional premiums—literally pennies per day. This cost amounts to 3 cents per day per employee, or about $7 per year. It could have been completely offset by a negligible increase in the annual deductible, so that businesses would have paid nothing.

Unfortunately, House Republican conferees rejected even the modest proposal for parity on annual and lifetime caps. There is, as a result, nothing in the conference agreement to specifically address the fair treatment of persons with mental illness. This is unacceptable. More than two-thirds of the Senate voted for mental illness parity, and 116 Representatives endorsed the Senate amendment.

Mr. Speaker, this Congress and the Republican conferees had a real opportunity to make a modest but meaningful effort to reduce insurance discrimination against persons with mental illness. That they chose to do nothing at all is a lamentable rebuff to the millions of Americans who suffer from mental illness. We have to do better.

Ms. HARMAN. Mr. Speaker, I rise today on behalf of moderation and bipartisan cooperation and in strong support of the Health Coverage Availability conference report.

After months and months of gridlock, we finally have before us a solid health care compromise. This legislation shows what is possible if we put partisanship behind us and work from the sensible center for the betterment of our country.

Over the last decade, thousands of high-skill, high-wage workers in California's South Bay have lost their jobs because of defense downsizing. While many successfully found new employment, some cannot obtain medical insurance for themselves and their families because of preexisting health conditions. This bill generally prohibits insurers from excluding coverage of preexisting conditions and ensures that individuals would not lose their health insurance coverage when they move from one job to another.

The conference report's bipartisan character is particularly apparent in the section authorizing medical savings accounts. I'm pleased with the language establishing an MSA trial program. This way we can collect accurate evidence on how MAS's affect the quality and scope of health coverage for everyone.

Mr. Speaker, if we govern together from the sensible center, we will be successful. If we resort to partisan bickering, we are doomed to failure. Americans want and deserve a Congress that works. This conference report is evidence that it can.

Mrs. LOWEY. Mr. Speaker, I rise in support of the Kennedy-Kassebaum health insurance reform bill. While not perfect, this bill is a major step toward improving the health security of hard-working Americans and their families.

Mr. Speaker, Democrats have been working on this issue for a long time. Senator KENNEDY and his colleague, Senator KASSEBAUM, introduced their bill nearly a year ago today. The President endorsed the plan in his State of the Union address in January. Democrats in both Houses have been fighting for it ever since. The time has come to finally enact these reforms.

Mr. Speaker, we all know that the days of having a 40-year career at a single company are over. Americans today change their jobs often, but can't take their health insurance with them. Too many hard-working Americans and their families have faced a troubling threat—if they change or lose their job, they lose their health insurance. That is wrong. This bill will give more Americans the peace of mind that they will continue to have access to health insurance, regardless of their job situation.

In addition, this health reform bill will: prevent insurance companies from denying coverage to Americans because they are sick; help seniors suffering from Alzheimer's and other chronic illnesses to afford the cost of long-term care; allow the self-employed to deduct more of their health insurance costs; and create a demonstration project to determine whether tax-preferred medical savings accounts are a promising way to control costs and protect patients' choice of doctor.

While I strongly support this bill, I am extremely disappointed that it does not ensure that mental health benefits are treated like other health benefits. The Senate unanimously supported mental health parity and nearly 100 of my colleagues in the House expressed their strong agreement. Sadly, it is not included in this bill. Mental illness is no different from physical illness. It should no longer be stigmatized.

I hope we can work to end discrimination against mental illness. For now, we must pass this bill—for it is a step forward for millions of American families. I urge my colleagues to support this health insurance reform bill.

Mr. BUNNING. Mr. Speaker, I rise in support of the Health Coverage Availability and Affordability Act and urge my colleagues to vote for it. It is a good bill.

Two years ago, when the First Lady's massive health care reform proposal was being

considered and rejected by Congress, two things became clear. It was obvious that there was virtually no public support for a dramatic increase in the Government's involvement in our health care system. But it also became clear that there were quite a few health care issues on which there was widespread agreement.

This bill is the result of that consensus. It contains many of the reforms that are really needed in our health care system—reforms that people really want. It contains the reforms that we can all agree on. This bill does what is doable in health care reform.

The key element of this bill is something I have been working on for several years—legislation to ensure portability of health care insurance. Currently, too many people are locked out of health coverage because they have some sort of chronic health problem or preexisting condition. Our bill will solve the problem by eliminating preexisting condition exclusions for people with prior health insurance coverage. This is a long overdue change.

The Health Care Availability and Affordability Act does some other worthwhile things too. It will also improve access to health insurance by raising the health care deduction for self-employed from 30 to 80 percent, and by allowing small businesses to form insurance pools to get better rates for their employees. It will allow tax deductions for long-term health care coverage; allow terminally ill patients to receive tax-free accelerated death benefits from their insurance companies and create an exciting new concept called medical savings accounts.

I'm very excited about the potential for medical savings accounts. These accounts will allow people to set money aside in tax exempt accounts to use for medical expenses. Later, unused funds remaining in the accounts could be used for other purposes. What better incentive could you ask for to make people better shoppers and wiser users of health care? The medical savings account is a great idea.

Unfortunately, because the President objected to the MSA concept, we had to scale back the availability of these accounts in this bill. In the final bill, MSA's will be allowed on a 4-year test basis and be limited to 750,000 policies. But I am confident that in less than 4 years, medical savings accounts will prove themselves and Congress will clearly recognize their value and expand their availability.

This is a good bill. It doesn't solve all our health care problems but it contains many worthwhile reforms and it is doable. I urge my colleagues to vote for it.

Mrs. COLLINS of Illinois. Mr. Speaker, HIPAA, HIPAA, Hurray. HIPAA stands for the Health Insurance Portability and Accountability Act, the short title of H.R. 3103 for which we now consider a conference report. Hurray. We finally have some health care reform. I say "some," because we still have a long way to go, but in this week of the 1996 summer Olympics, we at least have gotten out of the starting blocks to provide improved access to health case financing for more Americans.

The portability provisions agreed upon in this conference report of H.R. 3103, will allow people who lose or change jobs to continue their health insurance coverage. Now, even with some preexisting condition, health insurance plans can only limit for so long a person's waiting period before treatment for a preexisting condition could be covered—and, no longer can pregnancy, birth, and adoption be considered prohibitions to immediate coverage. These are good steps toward universal access and health insurance coverage for all Americans, which I have long advocated.

It looks like we finally have some relief from the special interests that control the health care delivery and financing system in this country that left over 37 million American uninsured for health care. It has been well documented that it is hard-working middle-income families who were being squeezed out of decent health coverage. In this time of rampant corporate layoffs, losing your job or even changing jobs can mean a devasting loss of health insurance coverage for you and your family.

Small businesses with 25 employees or less often found group coverage either un-affordable or unavailable if any of their workers were determined to be part of a high-risk category. Under this agreement, the small group employer market will be opened up. Title I of this conference bill provides for guaranteed availability of coverage to employees in the small group market. In layperson language, that means that each insurer that offers coverage in a small group market will have to make all health insurance policies available to all small employers and will have to accept for enrollment every eligible individual within the same employer—no longer will health insurance companies be able to pick and choose, or discriminate, who will be allowed to have health insurance.

Especially at a time of growing economic insecurity and instability, we have been challenged to find ways to address these problems—to make health coverage easier to buy and keep. That has been my primary goal in my efforts to reform the health care financing system in America today. I believe that we must be vigilant on a wide variety of concerns to help ensure that any health care reform product that is passed by Congress satisfies certain criteria. Some of the important objectives include universal coverage, comprehensive benefits, strong cost containment, and guaranteed access to high quality care for low-income, unemployed, and part-time employed people. Also, it is critical that the unique health needs of women, minority, and elderly populations are addressed. There should additionally be some expansion of long-term care insurance market.

So, there is more work to be done to provide fair and open access to health care for all children, individuals, and families. Until and unless Congress can achieve meaningful health care reform to provide for universal access to health care financing, there must be Medicaid eligibility for the unemployed, uninsured families who receive public assistance.

Mr. Speaker, I am disappointed that the provisions for mental health parity did not survive the conference because I believe that every person has a right to receive comprehensive physical and mental care under health care financing. Many States provide for mental health care coverage in their health insurance plans and I believe that the Federal Government will eventually recognize the value for it and will ensure national uniformity in that area.

The health care reform covered in this conference agreement is a good start. I urge my colleagues to support this conference agreement.

Mr. COLLINS of Georgia. Mr. Speaker, I rise to support this health care bill that will make health care more available and affordable for millions of Americans.

This is a health care bill the American people have wanted for years. And this Congress was able to accomplish this without a Government takeover of health care.

Two key provisions of this reform bill will eliminate health coverage exclusions based on pre-existing conditions and expand the portability of health care insurance plans for workers.

American workers will no longer have to fear losing their health care coverage if they change jobs. And, people can change jobs without losing their health insurance even if they have a pre-existing condition. These are major breakthroughs in health care.

We created Medical Savings Accounts to allow small business employees and the self-employed to make tax deductible contributions to a savings account if they choose to purchase a high deductible health plan.

We increased to 80 percent the tax deduction self-employed individuals can claim for health insurance. We included tax deductions for nursing home and home health care insurance and approved accelerated death benefits which will provide Americans more access to health care.

Finally, the legislation fights fraud and abuse in the health care industry by creating new criminal penalties and by increasing funding for prosecutions and investigations.

I am pleased to learn that President Clinton announced he will sign this historic health reform legislation even though he had previously threatened to veto the measure.

This legislation is good, sound health care policy. It provides a comprehensive approach to providing market-based health care reform that avoids the explosion of government bureaucracy.

Mr. COSTELLO. Mr. Speaker, I rise in support of the conference agreement on the Health Coverage Availability and Affordability Act. While this bill is not perfect, I am pleased we have reached a bipartisan compromise on this important legislation. The conferees improved the House-passed bill and I am hopeful this body will now pass this conference report so it may be sent to the President. By passing this bill, we will help millions of Americans relieve their anxiety about maintaining health insurance if they become unemployed or change jobs.

This bill makes great strides toward protecting the health insurance converge of workers who face job-lock because of a fear of losing medical benefits. By increasing portability, the Congress is extending coverage to millions of working Americans who might otherwise lose their health care benefits.

This bill makes modest, basic changes to our health care system. It increases the portability of health insurance by prohibiting insurance companies and Health Maintenance Organizations [HMO's] from denying health care

coverage to workers who move to another company or lose their jobs. Under the legislation, insurers may not exclude coverage for pre-existing medical conditions for more than 1 year.

The bill also raises from 30 to 80 percent the share of health insurance costs that the self-employed could deduct for tax purposes. While I believe that health insurance costs for the self-employed should be 100-percent deductible, this provision is an important step in giving small business entrepreneurs and family farmers more economic security.

In addition, the legislation establishes a test pool of Medical Savings Accounts where for 4 years up to 750,000 Americans who usually have high-deductible insurance policies could instead contribute to these accounts. These contributions could be used to pay medical expenses, but unused funds could accumulate or remain the property of the contributor. I am pleased we are giving MSA's a test run to see if, in fact, such savings accounts are equitable to everyone in insurance pools. I have strong reservation about jumping to such a large scale program without knowing if MSA's will work.

These incremental yet important reforms are the first step in fixing our health care system. We must next work on providing adequate and affordable health care for the uninsured and underinsured. This bill will help reduce the number of uninsured Americans and allow Congress to better target insurance reform in the future.

Mr. CASTLE. Mr. Speaker, I rise in strong support of the Health Coverage Availability and Affordability Act. This historic agreement will address the health insurance needs of millions of Americans. Those who want to change jobs, or who find themselves stricken with a costly illness, or who find themselves unemployed, will still be able to purchase affordable health insurance for themselves and their families.

The magnitude of the health insurance problem today is substantial—millions of Americans are without health insurance—39.7 million non-elderly Americans, or 17 percent of non-elderly Americans, were without health insurance in 1994. This is in spite of the fact that the United States spends far more per capita on health care than any other major nation—according to 1993 estimates, national health expenditures totaled $884 billion, or 13.4 percent of the gross domestic product.

There are many reasons for this high rate of uninsurance. Increasing numbers of health insurance companies refuse to insure those with pre-existing medical conditions or who work in high-risk jobs. Health care costs have driven up the cost of insurance, making it unaffordable. Rates for small businesses and the self-employed are extremely high due to their small risk pools. State mandates sometimes load up policies with unnecessary or unwanted benefits. Medical malpractice laws drive up the need for defensive medicine and expensive liability insurance for doctors.

I am delighted that the Congress was able to work in a bipartisan way to achieve important health insurance reforms to address some of these problems. This bill is a composite of sensible ideas which will have a substantial impact on hard working Americans who seek to retain or obtain health insurance coverage.

The conference report retains the best of the House and Senate proposals. It addresses the availability of health insurance by making sure health insurance is available for individuals moving from group to group or group to individual coverage. These portability provisions will provide important protections for the American people. It also guarantees the availability of insurance coverage to employees in the small group market, and assures people in group health plans that they cannot be excluded from coverage or from renewing their coverage based on their health status.

The issue of affordability is addressed by strong anti-fraud and abuse provisions—which are particularly important given that an estimated 1 in every 10 health care dollars is spent on fraud or abuse. Some of the reforms include establishing a national health care fraud and abuse control program to coordinate Federal, State, and local law enforcement to combat fraud with respect to health plans; establish a Medicare Integrity program; increase criminal penalties for fraud and abuse violations under Medicare and Medicaid; establish a program to encourage individuals to report suspected cases of fraud and abuse in the Medicare Program; among others

In addition, the bill includes administrative simplification provisions which should also reduce costs. Uniform standards for health information would enable the private sector to reduce paperwork—which accounts for an estimated 1 in every 10 health care dollars spend—make it easier to identify fraudulent claims, and make it easier for consumers to compare health plans and services. And it raises the health insurance deduction for self-employed individuals form 30 to 80 percent by the year 2006, and provides tax incentives for the purchase of long term care.

The conference report also includes an important innovation—Medical Savings Accounts. I am extremely pleased that the conferees agreed to a demonstration program. Medical Savings Accounts hold considerable promise, as they can make consumers more cost-conscious and thereby reduce health care costs. MSA's give consumers a clear inventive to take a more active role in their health care.

But before MSA's should be implemented on a grand scale, I think it makes sense to ensure MSA's don't have negative unintended consequences regarding the health insurance market or the health care choices that consumers make. For example, I imagine that none of us wants to see consumers forgoing all preventive care in order to build up their medical savings accounts. That is why the idea of a demonstration program is such a reasonable one.

This bill will make health insurance more affordable for millions of Americans. It will expand the opportunities Americans have to secure health care for their families, and will provide protection in these uncertain economic times. Health insurance reform is an idea whose time has finally come, and I hope this bill will pass with a wide bipartisan margin.

Mr. POSHARD. Mr. Speaker, I rise in strong support of the Kennedy-Kassebaum health insurance portability conference agreement, because this bill represents a bipartisan approach to providing health insurance portability to millions of Americans. For too long, workers and their families have been denied continued access to affordable and quality health insurance coverage simply because they lose their job or are found to be suffering from a pre-existing illness. This bill guarantees those individuals health coverage.

The bill also provides a long overdue increase in the deductibility of health insurance costs for this Nation's self-employed. I know that in my very rural congressional district, hundreds of farmers and their families have been shut out of being able to afford health insurance, because they were not able to deduct the cost of insurance at the same rate as corporations. While this bill does not level the deduction, it does move the deduction from 30 to 80 percent. This increase will provide the financial incentive to give farmers, the self-employed, and their families the ability to afford quality health care insurance.

Additionally, Americans have not had the opportunity to enroll in medical savings accounts. Coupled with catastrophic insurance to cover serious illnesses, these private, tax deductible accounts will pay for routine medical expenses. Medical savings accounts will encourage prudent choice by individuals in selection more cost-effective health care services. I believe the agreement's medical savings account pilot program will demonstrate the necessity of providing not only small business owners and employees with this choice, but all Americans.

For those living and working in the 19th Congressional District, this bill will:

Make it easier for people to keep their health insurance coverage should they leave or lose their job;

Prohibit health insurance companies from denying health coverage to individual with a pre-existing illness;

Require insurance companies to offer at least two health insurance plans comparable to that of the companies' other plans to people shifting from group to individual coverage;

Create a 4-year pilot program to test medical savings accounts on small business owners and employees;

Increase the deductibility of health insurance premiums for the self-employed to 80 from 30 percent;

Establish tax incentives to encourage the purchase of insurance for long-term care; and

Tackles fraud and abuse within the health care system.

As Co-Chair of the House Rural Health Care Coalition, I know this bill addresses many of the challenges we are facing in rural communities throughout America. I think our families and our businesses can look forward to meaningful changes in the way they purchase and use health insurance. This is a major step forward—but we must not forget the fact that millions of Americans are still without health insurance, and health care costs continue to climb.

We have demonstrated here today that by working together we can accomplish what many believe are far off goals. I encourage my colleagues on both sides of the aisle to use this bipartisan agreement as an example as we continue to overcome the many other challenges facing our nation's health care system, this Congress and the American people.

Mr. HALL of Texas. Mr. Speaker, I rise today in support of H.R. 3103, a health care

reform bill that represents more than 6 years of hard work on the part of many Members of Congress, beginning with Senator Bentsen in the 102d Congress and continuing through the 103d Congress and now the 104th.

I've had the opportunity to work on health care reform over the past 4 years through the Commerce Committee and through The Coalition. Many of the provisions in the bill that we are considering today were included in previous work, and I want to commend my colleagues for finally bringing this legislation to the floor of the House for consideration.

Health care is one of the most important concerns of Americans, and this bill will help alleviate some of their greatest fears. Americans who want to pursue other job opportunities or who lose their job are now free from the worry of losing their health insurance, and those with pre-existing conditions are no longer faced with the nightmare of being unable to secure insurance coverage.

In addition, taxpayers will be able to purchase long-term care insurance and deduct this as a medical expense. Terminally and chronically ill citizens will be able to receive life insurance benefits prior to death without paying taxes on them. And some citizens will have the opportunity to try an alternative to traditional health insurance in the form of medical savings accounts, which I support.

Mr. Speaker, these are important reforms that will offer much-needed relief to all Americans. I believe that it will be one of the most important accomplishments of this Congress, and I urge my colleagues' support.

Mr. STOKES. Mr. Speaker, I rise in support of the long-awaited health insurance reform bill, H.R. 3103, entitled the Health Care Coverage Availability and Affordability Act. This measure was first introduced in the Senate by our colleagues, Senators KENNEDY and KASSEBAUM, over a year ago, on July 13, 1995. Yet, for political reasons, the majority would not let the measure move through the legislative process.

In fact, it is possible that the measure would not have moved at all—if it had not been for President Clinton's leadership and commitment to meaningful health care reform. Each of us in this Chamber and in the Senate recalls President Clinton calling for the passage of the bill in his State of the Union Address in January.

While the majority acknowledged the President's instruction, their choke hold on the bill continued. In fact, because of continuing unnecessary roadblocks, the bill was not even voted on until late March.

It is because of the President's and the Democrats' continued pressure and steadfast commitment to meaningful reform that we can stand here today to vote on the conference to the health insurance bill.

While I am extremely concerned that H.R. 3103 does not include the mental health parity provisions which were in the Senate bill and which we know the American people want, and desperately need, and in fact which many of us had fought hard to have included in the measure for, we can be pleased that the bill increases the portability of health insurance, and gives families increased security with regard to maintaining their health care coverage. We can also be pleased that H.R. 3103 does address pre-existing health conditions. H.R. 3103 frees the American people from job lock, as the measure denies health insurance companies and HMO's from denying health care coverage to workers who change jobs and/or lose their jobs. These are critical provisions which those of us on this side of the aisle have worked tirelessly to secure.

More specifically, with regard to "group-to-group portability," the bill prohibits health insurance companies and HMO's from excluding coverage for pre-existing conditions for more than 1 year for individuals with a health condition for which medical advice, diagnosis, or treatment was given within 6 months prior to the individual becoming insured. The bill provides that this 12-month period be reduced by the period of time the individual was continuously covered by a group health plan in their previous job.

With regard to "group-to-individual portability", the conference agreement provides that certain individuals who previously had group coverage would be able to obtain individual health coverage. Under the agreement, insurance companies would be required to offer a choice of the two most popular policies they sell, or a choice of two policies that spread the risk.

With respect to long-term care, H.R. 3103 permits a tax deductibility of long-term care expenses, and allows those suffering from terminal and chronic illnesses to receive life insurance benefits prior to death without paying any taxes on such benefits.

However, with regard to the medical savings account provision, I remain extremely concerned as well. While I and many of my colleagues on this side of the aisle agreed with the Senate position that the measure should not include MSA's, the conference report does include a trimmed-back House proposal.

Instead of allowing for blanketed MSA's as the majority in the House had hoped, H.R. 3103 instead provides for a 4-year test period for medical savings accounts, and sets the number of participants allowed in the program to not exceed 750,000. Only businesses of no more than 50 employees and/or the self-employed individuals are permitted to participate in the program.

This is definitely one of those provisions where the phase "buyers beware" must be taken literally. After the 4-year period expires, people who participated in the MSA project could continue. However, no new accounts could be permitted unless new legislation was enacted to expand the time limit or to increase eligibility.

While I understand that the President is expected to sign the bill, it is incumbent upon each of us to follow the MSA provision very carefully, as it is expected to increase the cost of health care not reduce it. It is also incumbent upon each of us to continue to work to ensure adequate coverage for mental health.

Mr. Speaker, while H.R. 3103 definitely is not comprehensive health insurance reform, millions of Americans will benefit from the measure including small businesses and the self-employed. Serving as the line in the sand from where we can begin to make real inroads to meaningful health care reform, H.R. 3103 jump starts meaningful reform which is critically needed to ensure millions of Americans health care coverage that is accessible, affordable, and secure. While H.R. 3103 is not perfect, it is workable and I look forward to working with my colleagues to help further the enactment of meaningful health insurance reform. Vote "yes" on H.R. 3103.

Mrs. LINCOLN. Mr. Speaker, I rise today in support of the conference report for the Health Coverage Availability Act. This important legislation will address the millions of Americans who lose their insurance coverage because of job loss or because they suffer from a pre-existing condition.

Families in my home State of Arkansas have grown increasingly anxious about the availability, portability, and cost of their own private health coverage. And who would blame them? Consider these staggering statistics:

There are over 40 million Americans without health insurance.

Over 1 million working Americans have lost health insurance in the last 2 years alone.

Over 80 million Americans have preexisting conditions that could make it difficult for them to maintain health coverage when they change jobs.

The legislation before us today will help ease some of the fears and concerns our constituents face. The bill would prohibit insurance companies from denying health care coverage to workers who move to another company, or who lose their jobs or become self-employed. The conference report also bars insurers from excluding coverage for pre-existing illnesses for more than a year.

And I am extremely pleased to see that it would raise the amount of health insurance premiums self-employed people can deduct from their Federal income taxes from the current 30 to 80 percent. As many of you may know, I introduced the Health Insurance Equity Act which increases this deduction to 100 percent. Although the increase to 80 percent is substantial, I will continue to work to see this deduction increased to 100 percent. I believe that the small businessmen and farmers, who are the backbone of the district I represent, deserve the same tax benefits allowed larger businesses.

I am proud that this body has come together in a bipartisan fashion to produce this legislation that is worthy of our support. This conference report before us makes positive steps towards ensuring that the millions of Americans who are in need of health insurance will be able to afford and keep it.

Mr. CRANE. Mr. Speaker, in the last Congress, President Clinton set out to reform health care by taking decision making power away from the individual and placing it in the hands of a centralized bureaucracy. As a member of the Ways and Means Health Subcommittee, I am proud to be a part of the Congress that today is taking important steps towards reforming our health care system by taking power away from the bureaucrats and giving it back to individuals.

For example, the creation of Medical Savings Accounts [MSA's] will give individuals more rights and more responsibilities regarding their health care. I have been a strong supporter of MSA's, and I am pleased that Senate Democrats have agreed with the House and included MSA's in the conference report.

It should be noted that this is not a perfect bill by any means. I find it unfortunate that malpractice reform was dropped, I believe the MSA experiment is too restrictive, and I am concerned about the impact that guaranteed issue will have on the market as a whole. While there are unquestionably further improvements that can be made in our system and even in this bill, we are taking a major step forward.

When coupled with preexisting condition and portability reform, I believe MSA's and other provisions in this compromise represent a dramatic, but carefully measured reform of our health care delivery system. It is one that should be approved by Congress, applauded by pundits, welcomed by the American public, and signed by the President.

Mr. LAZIO of New York. Mr. Speaker, I rise today in strong support of the conference report to H.R. 3103, the Health Coverage and Affordability Act of 1996, of which I am a cosponsor.

Today, we are taking a long overdue step to help working class families across America, and in my home district of Long Island to acquire and keep their health care coverage.

For far too long, many Americans have worried that losing a job or having a preexisting condition would jeopardize the portability of their health insurance.

Because of this bill, workers will continue to have coverage if they change or lose their job—even with preexisting conditions.

As a result of our efforts today, health care will become more affordable. H.R. 3103 tackles the problem created by rampant fraud and lawsuit abuse that drives up the cost, and will increase penalties for those who commit fraud and abuse. Importantly, this bill also increases the health insurance deduction for self-employed individuals from 30 to 80 percent by 2006, and allows taxpayers to make tax-deductible contributions to a medical savings account.

An important feature of H.R. 3103 which Representative NANCY JOHNSON and myself championed, is a provision which will eliminate discrimination based on genetic information. This would allow thousands of men and women to undergo genetic testing needed to preserve their health without fear of losing their health insurance or not being able to acquire it. This protection is essential for the women of Long Island, where instances of breast cancer are among the highest in the country. With H.R. 3103 in place, these women can be tested for BRCA–1, a gene linked to the disease, without fear of losing the insurance needed to meet their medical needs. Hopefully some of this testing may provide information regarding the cause of this disease, or a potential cure.

I urge my colleagues to support this bill and these reforms which will ease some of those worries of families who are already being squeezed by high taxes and falling wages by ensuring availability, affordability, and accountability to those who received health care through their jobs. The American people deserve this and we owe it to them to pass it by a wide bipartisan margin.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. STARK

Mr. STARK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. NEY). Is the gentleman opposed to the conference report?

Mr. STARK. In its present form, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. STARK moves to recommit the conference report on the bill H.R. 3103 to the committee on conference with instructions to the managers on the part of the House, to do everything possible, within the scope of the conference, (1) to modify Section 305 of the Senate amendment relating to mental health insurance parity so as to improve mental health care insurance while minimizing any impact on the cost or availability of health insurance plans, and (2) to produce a conference report which confines itself to the differences between the bill as passed by the House and passed by the Senate.

□ 1945

The SPEAKER pro tempore (Mr. NEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. STARK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 198, nays 228, not voting 7, as follows:

[Roll No. 392]

YEAS—198

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blumenauer
Blute
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Cunningham
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stockman
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velázquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NAYS—228

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Davis
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Goodlatte
Goodling
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica

Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—7

Brownback
Dickey
Ford
Lincoln
McDade
Wilson
Young (FL)

□ 2003

Messrs. SAXTON, SKELTON, and VOLKMER changed their vote from "yea" to "nay."

Mr. JEFFERSON and Mr. HALL of Texas changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. (Mr. NEY). The question is on the conference report.

Pursuant to House Resolution 392, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 2, not voting 10, as follows:

[Roll No. 393]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
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Green (TX)
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Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
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Kanjorski
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Kasich
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Kennedy (MA)
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Lewis (CA)
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Lewis (KY)
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Lipinski
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Lofgren
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Rohrabacher
Ros-Lehtinen
Rose
Roth
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Roybal-Allard
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Sanford
Sawyer
Saxton
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Schaefer
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Schroeder
Schumer
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Sensenbrenner
Serrano
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Smith (MI)
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Smith (TX)
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Souder
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Taylor (MS)
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Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Zeliff
Zimmer

NAYS—2

Stark
Williams

NOT VOTING—10

Bateman
Brownback
Diaz-Balart
Dickey
Ford
Graham
Lincoln
McDade
Wilson
Young (FL)

□ 2015

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DIAZ-BALART. Mr. Speaker, on rollcall No. 393, I was inadvertently detained and missed the rollcall vote. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. BATEMAN. Mr. Speaker, on rollcall No. 393, I am advised I was not recorded as voting. Since I was present on the floor, I do not know why. Had I been recorded, I would have voted "aye."

PERSONAL EXPLANATION

Mr. GRAHAM. Mr. Speaker, on rollcall No. 393, I was attending a committee markup. Had I been present, I would have voted "yea."

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 3517, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1997, AND CONFERENCE REPORT ON H.R. 3845, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997

Mrs. VUCANOVICH. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider conference reports to accompany the bills H.R. 3517 and 3845, that all points of order against both conference reports and against their consideration be waived, and that both conference reports be considered as read when called up.

The SPEAKER pro tempore (Mr. NEY). Is there objection to the request of the gentlewoman from Navada?

There was no objection.

CONFERENCE REPORT ON H.R. 3517, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1997

Mrs. VUCANOVICH. Mr. Speaker, pursuant to the previous order of the

House, I call up the conference report on the bill (H.R. 3517) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, July 30, 1996, at page 20516.)

The SPEAKER pro tempore. The gentlewoman from Nevada [Mrs. VUCANOVICH] and the gentlemen from North Carolina [Mr. HEFNER] each will control 30 minutes.

The Chair recognizes the gentlewoman from Nevada [Mrs. VUCANOVICH].

GENERAL LEAVE

Mrs. VUCANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany H.R. 3517, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

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

Mr. Speaker, The conference report we present to the House today for military construction, family housing, and base closure recommends a total appropriation of $9.9 billion. This represents a $1.2 billion, or 10-percent, decrease from last year. The conference report is $50 million below the House-passed level and is within the subcommittee's revised 602(b) allocation.

Mr. Speaker, the House conferees had more than 200 differences to resolve, representing over $1 billion. We have done so in an equitable manner. At the same time, we held to our priorities and provided an additional $195 million for troop housing and $271 million for family housing above the President's request.

Overall, the agreement recommends $4 billion for items related to family housing; $2.5 billion for the implementation of base realignments and closures; and $3.2 billion for military construction.

Mr. Speaker, the projects to be implemented with this appropriation are still subject to authorization. We have worked closely with the National Security Committee in crafting this bill. This cooperation has been invaluable and I understand they support this agreement.

As always, I want to express my appreciation to all members of the subcommittee and especially our ranking member, Mr. HEFNER, for this cooperation in crafting this agreement. It has been done in a bipartisan manner and is an equitable compromise.

This bill represents an investment program that has significant payback in economic terms and in better living and working conditions for our military personnel and their families. I urge my colleagues to support this conference report.

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

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1997 (H.R. 3517)

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Military construction, Army	633,814,000	434,723,000	603,584,000	448,973,000	565,688,000	-68,126,000
Rescission	-6,385,000			-2,028,000	-2,028,000	+4,357,000
Total, Military construction, Army (net)	627,429,000	434,723,000	603,584,000	446,945,000	563,660,000	-63,769,000
Military construction, Navy	554,636,000	525,346,000	724,476,000	642,484,000	707,094,000	+152,458,000
Rescissions	-6,385,000		-12,000,000	-11,300,000	-11,300,000	-4,915,000
Total, Military construction, Navy (net)	548,251,000	525,346,000	712,476,000	631,184,000	695,794,000	+147,543,000
Military construction, Air Force	587,234,000	603,059,000	678,914,000	704,689,000	754,064,000	+166,830,000
Rescissions	-15,150,000			-2,100,000	-2,100,000	+13,050,000
Total, Military construction, Air Force (net)	572,084,000	603,059,000	678,914,000	702,589,000	751,964,000	+179,880,000
Military construction, Defense-wide	640,357,000	812,945,000	772,345,000	771,758,000	763,922,000	+123,565,000
Rescissions	-41,866,000			-7,000,000	-7,000,000	+34,866,000
Total, Military construction, Defense-wide (net)	598,491,000	812,945,000	772,345,000	764,758,000	756,922,000	+158,431,000
Total, Active components	2,346,255,000	2,376,073,000	2,767,319,000	2,545,476,000	2,768,340,000	+422,085,000
Department of Defense Military Unaccompanied Housing Improvement Fund			10,000,000		5,000,000	+5,000,000
Military construction, Army National Guard	137,110,000	7,600,000	41,316,000	142,948,000	78,086,000	-59,024,000
Military construction, Air National Guard	171,272,000	75,394,000	118,394,000	224,444,000	189,855,000	+18,583,000
Rescission	-6,700,000					+6,700,000
Total, Military construction, Air National Guard (net)	164,572,000	75,394,000	118,394,000	224,444,000	189,855,000	+25,283,000
Military construction, Army Reserve	72,728,000	48,459,000	50,159,000	75,474,000	55,543,000	-17,185,000
Military construction, Naval Reserve	19,055,000	10,983,000	33,169,000	49,883,000	37,579,000	+18,524,000
Military construction, Air Force Reserve	36,482,000	51,655,000	51,655,000	67,805,000	52,805,000	+16,323,000
Total, Reserve components	429,947,000	194,091,000	294,693,000	560,554,000	413,868,000	-16,079,000
Total, Military construction	2,776,202,000	2,570,164,000	3,072,012,000	3,106,030,000	3,187,208,000	+411,006,000
Appropriations	(2,852,688,000)	(2,570,164,000)	(3,084,012,000)	(3,128,458,000)	(3,209,636,000)	(+356,948,000)
Rescissions	(-76,486,000)		(-12,000,000)	(-22,428,000)	(-22,428,000)	(+54,058,000)
NATO Security Investment Program	161,000,000	197,000,000	177,000,000	172,000,000	172,000,000	+11,000,000
Supplemental appropriation	37,500,000					-37,500,000
Total, NATO	198,500,000	197,000,000	177,000,000	172,000,000	172,000,000	-26,500,000
Family housing, Army:						
Construction	116,656,000	75,013,000	176,603,000	189,319,000	158,503,000	+41,847,000
Operation and Maintenance	1,335,596,000	1,212,466,000	1,257,466,000	1,212,466,000	1,212,466,000	-123,130,000
Total, Family housing, Army	1,452,252,000	1,287,479,000	1,434,069,000	1,401,785,000	1,370,969,000	-81,283,000
Family housing, Navy and Marine Corps:						
Construction	525,058,000	403,726,000	532,456,000	418,326,000	499,886,000	-25,172,000
Operation and Maintenance	1,048,329,000	1,014,241,000	1,058,241,000	1,014,241,000	1,014,241,000	-34,088,000
Total, Family housing, Navy	1,573,387,000	1,417,967,000	1,590,697,000	1,432,567,000	1,514,127,000	-59,260,000
Family housing, Air Force:						
Construction	297,738,000	231,236,000	304,068,000	291,464,000	317,507,000	+19,769,000
Operation and Maintenance	849,213,000	829,474,000	840,474,000	829,474,000	816,509,000	-32,704,000
Total, Family housing, Air Force	1,146,951,000	1,060,710,000	1,144,542,000	1,120,938,000	1,134,016,000	-12,935,000
Family housing, Defense-wide:						
Construction	3,772,000	4,371,000	4,371,000	4,371,000	4,371,000	+599,000
Operation and Maintenance	30,467,000	30,963,000	30,963,000	30,963,000	30,963,000	+496,000
Total, Family housing, Defense-wide	34,239,000	35,334,000	35,334,000	35,334,000	35,334,000	+1,095,000
Department of Defense Family Housing Improvement Fund	22,000,000	20,000,000	35,000,000	20,000,000	25,000,000	+3,000,000
Homeowners Assistance Fund, Defense	75,586,000	36,181,000	36,181,000	36,181,000	36,181,000	-39,405,000
Total, Family housing	4,304,415,000	3,857,671,000	4,275,823,000	4,046,805,000	4,115,627,000	-188,788,000
Construction	(943,224,000)	(714,346,000)	(1,017,498,000)	(903,480,000)	(980,267,000)	(+37,043,000)
Operation and Maintenance	(3,263,605,000)	(3,087,144,000)	(3,187,144,000)	(3,087,144,000)	(3,074,179,000)	(-189,426,000)
Family Housing Improvement Fund	(22,000,000)	(20,000,000)	(35,000,000)	(20,000,000)	(25,000,000)	(+3,000,000)
Homeowners Assistance Fund	(75,586,000)	(36,181,000)	(36,181,000)	(36,181,000)	(36,181,000)	(-39,405,000)

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1997 (H.R. 3517) — continued

	FY 1996 Enacted	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Base realignment and closure accounts:						
Part II	964,843,000	352,800,000	352,800,000	352,800,000	352,800,000	-612,043,000
Part III	2,148,480,000	971,925,000	971,925,000	971,925,000	971,925,000	-1,176,555,000
Part IV	784,569,000	1,182,749,000	1,182,749,000	1,182,749,000	1,182,749,000	+398,180,000
Total, Base realignment and closure accounts	3,897,892,000	2,507,474,000	2,507,474,000	2,507,474,000	2,507,474,000	-1,390,418,000
Grand total:						
New budget (obligational) authority	11,177,009,000	9,132,309,000	10,032,309,000	9,832,309,000	9,982,309,000	-1,194,700,000
Appropriations	(11,253,495,000)	(9,132,309,000)	(10,044,309,000)	(9,854,737,000)	(10,004,737,000)	(-1,248,758,000)
Rescissions	(-76,486,000)	.....	(-12,000,000)	(-22,428,000)	(-22,428,000)	(+54,058,000)

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

I rise today in support of the military construction appropriations conference report, which was signed by all the conferees, and has strong bipartisan support.

I also want to compliment the distinguished chairwoman of the Military Construction Subcommittee for her fine work. Mrs. VUCANOVICH has worked hard to produce a good bill that responds to needs of our service men and women, and she has done so in a bipartisan fashion. She will be missed on both sides of the aisle. Our service people and their families will also miss Mrs. VUCANOVICH, who worked so very hard for their well being.

The bill contains almost $10 billion in total funding and responds to the highest priority requirements of the Joint Chiefs and administration.

There has been a significant reduction in funds for military housing with all the base closures, bottom up reviews and 5-year plans. I am very pleased that the conference agreement continues our bipartisan effort to address the quality-of-life issues for both enlisted personnel and families of military members, including facilities in North Carolina. It may not seem that glamorous to fund barracks, family housing and child care centers, but if you have had any exposure to the military way of life, you know that providing a decent place to live is an important factor in military readiness.

This bill also takes care of many other critical needs of the Department including the base closure construction and clean-up requirements, critically needed medical facilities, major new homeporting facilities and other operational upgrades. I'm pleased to see the report includes funding for both a hospital and a clinic badly needed at Fort Bragg, as well as completing an important land acquisition there.

It is an excellent bill and I urge all Members to support this bipartisan conference report.

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

Mr. Speaker, this is a very good bill. We are happy with the end product that we have here. I would just like to take this time to tell the gentlewoman from Nevada [Mrs. VUCANOVICH], the chairman, that we are going to miss her in this body and congratulate her and the staff on a job well done on this military construction bill. It is a very good bill. It enhances the quality of life for our military personnel.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to rise as well and express my admiration and respect for the gentlewoman from Nevada [Mrs. VUCANOVICH], the chairman of this subcommittee. She has done an outstanding job both as a member of the Subcommittee on Military Construction of the Committee on Appropriations, and as chairman of that subcommittee. I had the privilege of serving with her as a member of that subcommittee for a number of years. Her leaving the House will be a loss not only to the House, but to the men and women of the Armed Services for whom she has done a great deal in terms of quality of life and in terms of assuring ourselves that from a military infrastructure standpoint we have facilities that are adequate not only to protect the quality of life for our men and women in the Armed Services, but also to protect our readiness.

I wanted to rise, Mr. Speaker, and pay tribute to her. This will be probably the last time, at least in terms of a sole bill, and hopefully this bill is going to be signed relatively soon, that she will be presenting this legislation. As one who has had the opportunity to work with her, she has been a credit to this institution and a credit to her State and a credit to our country.

I also want to say, of course, that the gentleman from North Carolina, BILL HEFNER, the ranking member, who has been the chairman of this committee, worked very closely with the gentlewoman from Nevada [Mrs. VUCANOVICH] himself, is someone who has been a leader on behalf of the quality of life of our men and women in the Armed Services. I rise in strong support of this legislation and congratulate both the chairman and the ranking member on their leadership in this effort.

Mr. BLILEY. Mr. Speaker, I rise today in strong support of H.R. 3517, the military construction appropriation conference report. I want to especially commend chairwoman VUCANOVICH for the good work, and to let her know that this House will sorely miss her.

Contained in the conference report is funding which will allow the army to finish the planning and design work, and to purchase the land for the construction of a new national ground intelligence center (NGIC) in Charlottesville, VA.

The NGIC's mission is to produce scientific, technical and general military intelligence on foreign ground forces. The NGIC currently occupies six geographically separate buildings in Charlottesville. By all accounts, these facilities are woefully inadequate to fulfill the NGIC's vital mission. In 1986, an army corps of engineers facility requirement review concluded that the Charlottesville facilities "are grossly inadequate in virtually every parameter measured."

There are critical management inefficiencies and costs associated with operating an intelligence organization spread out over six locations. In addition, the main building in downtown Charlottesville has serious structural and environmental safety shortcomings, as well as electric power and mechanical deficiencies.

For many years, the army has been working to build a suitable facility to house the NGIC. A number of studies—including the BRACC—have determined that relocation of the NGIC outside of Charlottesville is neither operationally nor economically feasible.

Once again, I applaud chairman Vucanovich for her leadership is helping to give the NGIC the facility that it so urgently needs.

Mr. FAZIO of California. Mr. Speaker, I rise in support of the Military Construction Appropriations Conference Report for fiscal year 1997. I would like to thank the chairwoman of this committee, BARBARA VUCANOVICH, who has once again moved this bill swiftly through the Appropriations Committee and the conference committee, and I am sad to say will be doing it for the last time. I want to wish her well and would like to personally thank her for the service that she has provided to this important subcommittee and this institution. I would also like to thank the ranking member of the Subcommittee, BILL HEFNER, for his help and assistance in bringing this legislation to the floor.

This bill provides nearly $10 billion in fiscal year 1997 for military construction, family housing and military base closures. This bill continues this House's commitment to funding initiatives that upgrade the quality of life for the men and women of the armed forces and their families.

Mr. Speaker, I would like to highlight a few important projects in the bill that are important to the Air Force bases in my district.

The first project is the ongoing renovation of the dormitories at Travis AFB. This bill provides funding for one dormitory scheduled for construction this year, and funding to speed up construction of a second dorm at Travis. Additionally, this bill includes $8.63 million for the construction of 70 multi-family housing units for enlisted personnel stationed at Travis. This project goes a long way to improve Travis' housing situation. The construction of the dormitories are part of a base-wide project to upgrade and improve base housing in order to meet Air Force requirements.

This bill also provides funds to replace Travis' underground fueling system. The system was designed to provide a quick and efficient way to refuel two jets at one time. Travis currently relies on an underground system from the 1950's, which often fails because of electrical shorts which occur after rainstorms. The new fuel system is safer and more efficient than the fuel trucks on the runway. It will also put an end to the occasional leaks which are so bad for the environment.

These upgrades are a clear sign that Travis is, and will remain, vital to Air Mobility Command's mission.

Mr. Speaker, this bill also provides for three projects at Beale AFB: the closure of Landfill No. 2, the CARS Deployable Ground Station Support Facility and 56 units of family housing.

Funding for the closure of Landfill No. 2 will allow the base to comply with California standards governing landfills. Currently, Beale is out of compliance with California law.

The bill also will provide for the construction of a new home for the Contingency Airborne Reconnaissance System [CARS] Deployable Ground Station [DGS]. The DGS is an important mission that provides Air Force commanders with a satellite downlink that provides critical information from the battlefield. The current facility is stationed in mobile trailers and is unable to adequately support this mission. Failure to provide adequate support for this function would significantly degrade CARS operational capability to provide theater commanders worldwide with dynamic, responsive intelligence support for battlefield management and execution.

Finally, funding is provided for 56 family housing units on base. Funding for the 56 units of family housing at Beale is the second phase of a multi-year plan to eventually replace 1,700 family housing units on base. The new housing will significantly improve the quality of life for those stationed on base. Current housing facilities are substandard and are in need of being replaced.

Mr. Speaker, each of the initiatives I have outlined will help maintain Travis AFB and Beale AFB as critical defense assets and as integral parts of their respective communities. The projects that I have indicated are important to the ongoing missions at each base.

In closing, I want to reiterate my support for this important bill that provides for the quality of life for our troops and is vitally important to maintaining military readiness.

Mr. HEFNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I appreciate the kind words from the gentleman from Maryland. It has been a great honor to serve this body and to carry this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to the provisions of clause 7 of rule XV, the yeas and nays are ordered.

Pursuant to clause 5, rule I, further proceedings on this question are postponed until the end of consideration of the conference report on the bill, H.R. 3845.

CONFERENCE REPORT ON H.R. 3845, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997

Mr. WALSH. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of earlier today.)

The SPEAKER pro tempore. The gentleman from New York [Mr. WALSH] and the gentleman from California [Mr. DIXON] each will control 30 minutes.

The Chair recognizes the gentleman from New York [Mr. WALSH].

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany H.R. 3845, and that I may include tabular and extraneous material.

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

There was no objection.

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

Mr. Speaker, I will be very brief. The conference agreement we bring to the House this evening is essentially the same bill that was passed by this House 2 weeks ago. Our conference agreement includes $719 million in Federal funds and is within our 602(b) allocation in both budget authority and outlays. In District funds, we retain the ceiling of $5.108 billion on total operating expenses, and we were successful in getting a deficit cap reduced to $74 million instead of $99 million, as proposed by the consensus in the Senate bill.

Mr. Speaker, I want to thank the members of the subcommittee for their hard work. This is a good conference agreement. I urge the Members to support it.

Mr. Speaker, this evening we have before the House the conference agreement on H.R. 3845, the District of Columbia Appropriations Act for fiscal year 1997. It is essentially the same bill that was passed by this House 2 weeks ago with a few exceptions that I will highlight in a moment.

Our conference agreement includes $719 million in federal funds and is within our 602(b) allocation in both budget authority and outlays.

In Federal funds, the $719 million agreed to by the conferees is $1 million above the amounts recommended in the bill as passed by the House and Senate. The efforts of the gentleman from California [Mr. DIXON], the ranking member on our subcommittee, resulted in this $1 million being added to our bill for the control board to contract with private entities to inspect, flush, and repair the drinking water distribution system in the District. There is a strong Federal interest in assuring that those who visit, live, and work in the Nation's Capital have safe water to drink.

In District funds, we retain the ceiling of $5.108 billion on total operating expenses for fiscal year 1997, and we were successful in getting the deficit cap reduced to $74 million instead of $99 million as proposed in the consensus budget and the Senate bill.

Mr. Speaker, there are four items I want to mention briefly.

First, on the abortion issue, the Senate receded to the House language that no appropriated funds, Federal or local, are available for abortions except to save the mother's life, or in cases of rape or incest.

Regarding the domestic partners provision, the House language was agreed to by the conferees and provides that no funds, Federal or local, are to be used for a registration system or to implement or enforce the District's Domestic Partners Act.

Mr. Speaker, our subcommittee is concerned about deficit spending by the District government and borrowing long term to finance those deficits. We are urging the Mayor, the Council, and the control board to hold spending to the level of revenues collected. The District cannot spend its way to prosperity; nor can it borrow its way to prosperity.

And lastly, we have included an important provision regarding the Chief Financial Officer. Language in section 142 makes clear that all financial personnel in the executive branch of the District government, including all independent agencies and excluding the legislative and judicial branches, are under the exclusive control of the CFO. The CFO is making progress. It has been reported that the time delay in making vendor payments has been reduced from months to between 30 to 45 days. This is good progress.

I would like to thank the members of the sbucommittee for their hard work on this bill—the gentleman from Texas [Mr. BONILLA], the gentleman from Georgia [Mr. KINGSTON], the gentleman from New Jersey [Mr. FRELINGHUYSEN], the gentleman from Wisconsin [Mr. NEUMANN], the gentleman from Mississippi [Mr. PARKER], the gentleman from California [Mr. DIXON], the ranking member on our subcommittee and my predecessor as subcommittee chairman, the gentleman from New York [Mr. SERRANO], the gentlelady from Ohio [Ms. KAPTUR], and the ranking member of the committee, the gentleman from Wisconsin [Mr. OBEY].

I want to especially thank the full committee chairman, the gentleman from Louisiana [Mr. LIVINGSTON], for his extraordinary efforts on this bill. He took time to participate in our markups and meetings while still tending to other important appropriations matters.

Each of these Members is to be commended. I also want to thank the House and Senate staff as well as my personal staff for their hard work.

Mr. Speaker, at this point in the RECORD, I will insert a tabulation summarizing the conference action.

[The tabulation referred to follows:]

FY 1997 DISTRICT OF COLUMBIA APPROPRIATIONS ACT (H.R. 3845)

Appropriation	FY 1996 Enacted	FY 1996 Distribution by Control Board	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Funds							
Federal payment to the District of Columbia	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000	---
Federal contribution to retirement funds	52,070,000	52,070,000	104,140,000	52,070,000	52,070,000	52,070,000	---
Reimbursement of inauguration expenses	---	---	5,702,000	5,702,000	5,702,000	5,702,000	5,702,000
Federal contribution for repair of drinking water system	---	---	---	---	---	1,000,000	1,000,000
Total, Federal funds to the District of Columbia	712,070,000	712,070,000	769,842,000	717,772,000	717,772,000	718,772,000	6,702,000
District of Columbia Funds							
Governmental Direction and Support	149,130,000	141,339,000	109,810,000	115,663,000	115,663,000	115,663,000	-33,467,000
Economic Development and Regulation	140,983,000	128,180,000	135,704,000	135,704,000	135,704,000	135,704,000	-5,279,000
Public Safety and Justice	963,848,000	969,972,000	1,041,281,000	1,041,281,000	1,041,281,000	1,041,281,000	77,433,000
Public Education System	795,201,000	790,567,000	758,815,000	758,815,000	758,815,000	758,815,000	-36,386,000
Human Support Services	1,855,014,000	1,701,460,000	1,685,707,000	1,685,707,000	1,685,707,000	1,685,707,000	-169,307,000
Public Works	297,568,000	288,059,000	247,967,000	247,967,000	247,967,000	247,967,000	-49,601,000
Washington Convention Center Transfer Payment	5,400,000	5,400,000	5,400,000	5,400,000	5,400,000	5,400,000	---
Repayment of Loans and Interest	327,787,000	327,787,000	333,710,000	333,710,000	333,710,000	333,710,000	5,923,000
Repayment of General Fund Recovery Debt	38,678,000	38,678,000	38,314,000	38,314,000	38,314,000	38,314,000	-364,000
Interest on Short Term Borrowing	9,698,000	18,420,000	34,461,000	34,461,000	34,461,000	34,461,000	24,763,000
Presidential Inauguration Expenses	---	---	5,702,000	5,702,000	5,702,000	5,702,000	5,702,000
Certificate of Participation	---	---	---	7,926,000	7,926,000	7,926,000	7,926,000
Human Resources Development	---	---	---	12,257,000	12,257,000	12,257,000	12,257,000
Cost Reduction Initiatives	---	---	-21,375,000	-47,411,000	-47,411,000	-47,411,000	-47,411,000
Pay Renegotiation or Reduction in Compensation	-46,409,000	---	---	---	---	---	46,409,000
Rainy Day Fund	4,563,000	---	---	---	---	---	-4,563,000
Incentive Buyout Program	19,000,000	---	---	---	---	---	-19,000,000
Outplacement Services	1,500,000	---	---	---	---	---	-1,500,000
Boards and Commissions	-500,000	---	---	---	---	---	500,000
Government Re-Engineering Program	-16,000,000	---	---	---	---	---	16,000,000
Total, operating expenses	4,545,461,000	4,409,862,000	4,375,496,000	4,375,496,000	4,375,496,000	4,375,496,000	-169,965,000

Appropriation	FY 1996 Enacted	FY 1996 Distribution by Control Board	FY 1997 Estimate	House	Senate	Conference	Conference compared with enacted
District of Columbia Financial Responsibility and Management Assistance Authority	3,500,000	3,150,000	3,400,000	3,400,000	3,400,000	3,400,000	-100,000
Enterprise Funds:							
Water and Sewer Enterprise Fund	242,253,000	231,004,000	221,362,000	221,362,000	221,362,000	221,362,000	-20,891,000
Lottery and Charitable Games Enterprise Fund	229,950,000	229,778,000	247,900,000	247,900,000	247,900,000	247,900,000	17,950,000
Cable Television Enterprise Fund	2,351,000	1,766,000	2,511,000	2,511,000	2,511,000	2,511,000	160,000
Starplex Fund	6,580,000	6,547,000	8,717,000	8,717,000	8,717,000	8,717,000	2,137,000
D.C. General Hospital	58,299,000	58,092,000	52,684,000	52,684,000	52,684,000	52,684,000	-5,615,000
D.C. Retirement Board	13,440,000	12,417,000	16,667,000	16,667,000	16,667,000	16,667,000	3,227,000
Correctional Industries Fund	10,516,000	8,827,000	3,052,000	3,052,000	3,052,000	3,052,000	-7,464,000
Washington Convention Center Enterprise Fund	32,557,000	32,557,000	42,596,000	42,596,000	42,596,000	42,596,000	10,039,000
Total, Enterprise Funds and Other	599,446,000	584,138,000	598,889,000	598,889,000	598,889,000	598,889,000	-557,000
Personal and Nonpersonal Services Adjustment	-150,907,000	---	---	---	---	---	150,907,000
Total, Operating Expenses - All Funds	4,994,000,000	4,994,000,000	4,974,385,000	4,974,385,000	4,974,385,000	4,974,385,000	-19,615,000
Capital Outlay:							
General Fund	62,562,000	62,562,000	75,923,000	46,923,000	75,923,000	46,923,000	-15,639,000
Water and Sewer Fund	39,477,000	39,477,000	---	---	---	---	-39,477,000
Total, Capital Outlay	102,039,000	102,039,000	75,923,000	46,923,000	75,923,000	46,923,000	-55,116,000
Total, District of Columbia Funds	5,096,039,000	5,096,039,000	5,050,308,000	5,021,308,000	5,050,308,000	5,021,308,000	-74,731,000
Intra-District Funds	-165,339,000	-163,087,000	---	---	---	---	165,339,000
Revised Total, District of Columbia Funds	4,930,700,000	4,932,952,000	5,050,308,000	5,021,308,000	5,050,308,000	5,021,308,000	90,608,000

(NOTE. - Amounts recommended in the bill exclude intra-District funds whereas amounts in this table for departments and agencies include intra-District funds for comparison purposes with fiscal year 1996 which also included intra-District funds at the department and agency level.)

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

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

Mr. Speaker, the gentleman from New York is correct. This bill is substantially the same that left the House. I can certainly support it. I would like to thank the gentleman from New York and the Senator from Vermont for their cooperation in this matter. It made the bill and the conference go smoothly. I pay particular thanks to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the full Committee on Appropriations, for we were able to provide another $1 million for the District of Columbia to clean the water pipes. This is an issue that not only affects the residents of the District and Federal employees, but tourists and citizens that come from around the country. I want to thank the gentleman from Louisiana [Mr. LIVINGSTON] for that effort.

Mr. Speaker, I rise in support of the conference agreement on the fiscal year 1997 District of Columbia appropriations bill.

I want to congratulate the gentleman from New York, Mr. WALSH, and Senator JEFFORDS who chairs the D.C. Appropriations Subcommittee in the Senate, for their fine work in moving this bill in record time. Unlike last year when agreement on the 1996 bill was not reached until 7 months after the start of the fiscal year, this year we have reached a bipartisan agreement 2 months before the start of the 1997 fiscal year.

This conference agreement is a fair and balanced agreement on the 14 differing items between the House and Senate bills. The agreement adopts the $5.1 billion consensus budget submitted by the District and the Control Board, but also caps the projected budget deficit at $74 million. This cap will put the District on a faster path toward a balanced budget, while giving the District and the Control Board the flexibility to determine precisely what additional spending reductions can be made without disrupting vital city services.

The conference agreement also strengthen's the ability of the District's chief financial officer to supervise and reorganize the financial personnel of the District's executive and independent agencies. These are the individuals who will be responsible for maintaining strong financial controls and accountability within the District's bureaucracy. The conference agreement makes it clear that Congress intends that these individuals serve under the direction of the chief financial officer.

Mr. Speaker, with regard to the funding restrictions on abortion and domestic partners, the agreement continues the restrictions implemented in the fiscal year 1996 bill without change. I continue to believe that these provisions abridge the rights of the citizens of the District to make their own judgments about these matters through their own elected representatives. I hope that we can remove this intrusion into home rule in the future.

I am delighted that the conference agreement also includes $1 million in funding to comply with the Environmental Protection Agency's recommendation that the District move swiftly to address the causes of elevated bacteria levels in the District's drinking water. The District has had five violations of Federal water quality standards in the past year, and simply does not have the staff or resources to address this problem in a timely fashion. The funds in this bill will enable the Control Board to move swiftly to hire a private contractor to flush the District's drinking water system of bacteria and other pollutants, while the city develops a longer term plan to ensure that drinking water in the District remains safe.

Mr. Speaker, overall, this conference agreement is a good agreement. I support it and urge its adoption.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

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

Mr. Speaker, I would also like to thank the gentleman from California [Mr. DIXON], who served as chairman of this subcommittee, now serves as ranking member, for his cooperation, for his staff's cooperation. It was a remarkable feat to complete this bill in less than 3 weeks. It is due in no small part to the cooperation we received from the Democrat side and from the Senate.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to the provisions of clause 7 of rule XV, the yeas and nays are ordered.

Pursuant to clause 5 of the rule I, further proceedings on this question are postponed until the end of the vote on the conference report on H.R. 3517.

CONFERENCE REPORT ON H.R. 3517, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1997

The SPEAKER pro tempore. The pending business is the vote on the conference report on H.R. 3517.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to the provisions of clause 7 of rule XV, the yeas and nays are ordered.

This vote will be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 26, not voting 11, as follows:

[Roll No. 394]

YEAS—396

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula

Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Young (AK)
Zeliff
Zimmer

NAYS—26

Barrett (WI)
Brown (OH)
Bryant (TX)
Campbell
Collins (IL)
Collins (MI)
Conyers
Cooley
Frank (MA)
Gutierrez
Johnston
Kleczka
Klug
Lewis (GA)
Lofgren
Markey
Nadler
Owens
Roemer
Royce
Sensenbrenner
Stark
Upton
Waters
Weller
Yates

NOT VOTING—11

Brownback
Chapman
Dickey
Ford
Gunderson
Hilliard
Lincoln
McDade
Studds
Wilson
Young (FL)

□ 2047

Messrs. BRYANT of Texas, OWENS, AND LEWIS of Georgia changed their vote from "yea" to "nay."

Mr. FATTAH and Mr. MINGE changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Without objection, House Resolution 497 is laid on the table.

There was no objection.

CONFERENCE REPORT ON H.R. 3845, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997

The SPEAKER pro tempore (Mr. HAYWORTH). The pending business is the vote on the conference report on H.R. 3845.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to the provisions of clause 7 of rule XV, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 330, nays 91, not voting 12, as follows:

[Roll No. 395]

YEAS—330

Abercrombie
Ackerman
Armey
Bachus
Baker (LA)
Baldacci
Ballenger
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Calvert
Camp
Canady
Cardin
Castle
Chabot
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Cox
Coyne
Crane
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green (TX)
Greene (UT)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Lantos
Largent
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schiff
Scott
Seastrand
Serrano
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stark
Stokes
Stupak
Tanner
Tate
Tauzin
Tejeda
Thomas
Thompson
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Zeliff

NAYS—91

Allard
Andrews
Archer
Baesler
Baker (CA)
Barcia
Barr
Barton
Brewster
Browder
Burton
Buyer
Callahan
Campbell
Chambliss
Chenoweth
Coble
Collins (GA)
Combest
Condit
Cooley
Cramer
Crapo
DeFazio
Dellums
Doggett
Duncan
Everett
Fowler
Frank (MA)
Frelinghuysen
Gillmor
Gilman
Goss
Hall (TX)
Hamilton
Hancock
Hefley
Hefner
Hilleary
Hoekstra
Inglis
Klug
LaHood
Laughlin
Lazio
Leach
Lofgren
McInnis
Meyers
Mica
Miller (CA)
Moorhead
Nadler
Owens
Pelosi
Peterson (MN)
Petri
Pickett
Ramstad
Roberts
Roemer
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Schroeder
Schumer
Sensenbrenner
Shadegg
Shays
Solomon
Stearns
Stenholm
Stockman
Stump
Talent
Taylor (MS)
Taylor (NC)
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Upton
Volkmer
Weller
Williams
Zimmer

NOT VOTING—12

Brownback
Chapman
Dickey
Edwards
Ford
Gekas
Gunderson
Lincoln
McDade
Studds
Wilson
Young (FL)

□ 2059

Messrs. INGLIS of South Carolina, TORKILDSEN, and COLLINS of Georgia changed their vote from "yea" to "nay."

□ 2100

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on rollcall No. 395, I happened to be on the telephone at the time that the final vote was being taken. Had I been present I would have voted "aye."

CONTINGENT PERMISSION FOR LEATHER BOUND VOLUME ON SPECIAL ORDER IN TRIBUTE TO THE LATE HON. HAMILTON FISH, JR.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that that portion

of the CONGRESSIONAL RECORD for July 25, 1996, where Members were allowed to pay tribute to our colleague, the late Hamilton Fish, that that portion be leather bound for distribution for Members and the family of Hamilton Fish and that former members be given notice an opportunity to insert their tribute into the leather bound books.

The SPEAKER pro tempore. (Mr. HAYWORTH). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. With the concurrence of the Joint Committee on Printing.

LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, let me first advise the Members, and I do understand how hard we are all working, we are all anxious to complete our work to make our departures for our August recess work period.

At this time I can only advise Members, to the best of my knowledge, we should expect additional votes this evening within the hour. At any point during the evening, when I find information by which I can advise otherwise, I will ask for time to do so. But my best advice at this point is we must be prepared to stay for additional votes tonight, and I will keep Members informed.

I want to also express my appreciation to the Members on both sides of the aisle for your patience with these times being as they are.

PERMISSION TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON WEDNESDAY, SEPTEMBER 4, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding clause 1 of rule XXVII, the Speaker may entertain motions to suspend the rules on Wednesday, September 4, 1996.

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

Mr. FROST. Mr. Speaker, reserving the right to object, I do not intend to object. I would, however, like to clarify with the distinguished majority leader our understanding of what the procedure will be on Wednesday, September 4, with regard to suspensions.

It is our understanding that his office will supply us with the final list of suspensions he intends to consider on September 4 by noon on August 21st. We have requested this information from him in order to notify our Members in advance just what bill will be under consideration so that our Members who are interested in debating the bills could arrange to be here. It is our understanding that no additional bills will be added to this list without the unanimous consent of the minority.

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

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

Mr. ARMEY. Mr. Speaker, the gentleman is absolutely correct in the way he has stated it. We will supply that list by the 21st of August noon, and that indeed no other suspension would be brought up except by additional unanimous consent. And I would, again, like to express my appreciation for the leadership on the minority side of the aisle for their cooperation in working with us on this.

Mr. FROST. Mr. Speaker, I thank the majority leader, and I withdraw my reservation of objection.

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

There was no objection.

ORDER OF BUSINESS

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

Mr. SOLOMON. Mr. Speaker, as I understand it, the next item of business will be the rule on the defense authorization conference report. It is my intention to only use 2 or 3 minutes and then, when the manager on the Democrat side has done the same, we would then yield back our time and expedite this rule without a vote.

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

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

Mr. FROST. Mr. Speaker, I cannot assure the gentleman that it will only be 2 or 3 minutes. It will not be the full time. We do have a request by the gentleman from New Mexico for a colloquy. We also have a request by the ranking member on the Committee on Commerce for the opportunity to speak. But we will move along as quickly as we can.

Mr. SOLOMON. Mr. Speaker, a minimum amount of time on both sides.

CONFERENCE REPORT ON H.R. 3230, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 498

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3230) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1997, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. SOLOMON] is recognized for one hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I might consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 498 provides for the consideration of the conference report to accompany H.R. 3230, the National Defense Authorization Act for fiscal year 1997.

The rule waives all points of order against the conference report and against its consideration. It further provides that the conference report shall be considered as read.

The waiver includes a waiver of the 3-day layout rule, as the report was filed only Tuesday. This was necessary so that the House could complete consideration of this measure before the August recess tomorrow. Further, the report has been available in committee offices so Members and staff have had ample time to review it.

Mr. Speaker, this is a fair rule that provides for expeditious consideration of this critically important legislation. I urge support of the rule. I will not bother to get into the details of the bill. It has been debated at considerable length. We all know the contents.

Mr. Speaker, I urge prompt action on the rule, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON], our ambassador at large, for the purposes of engaging in a colloquy.

Mr. RICHARDSON. Mr. Speaker, I rise for the purpose of entering into a colloquy with the gentleman from Colorado [Mr. SCHAEFER], the chairman of the Subcommittee on Energy and Power.

As the gentleman knows, the Waste Isolation Pilot Plant in New Mexico will have a direct impact on many of our constituents in that State. While I support amending the land withdrawal act, I would like to clarify some aspects of this amending language.

First, I have concerns about designating November 1997 as the opening date for the facility. If new health and safety problems arise prior to start-up, I want to be assured that resolving these concerns will take precedence over the opening date.

Second, the issue of proper oversight is an important one. I want to ensure that the EPA will have a full capability to provide for the safe operation and regulation of WIPP.

Finally, I am concerned about the exemption from RCRA no-migration standards. As the gentleman knows, I have advocated for the implementation of an independent review of EPA's decision to strike the RCRA no-migration rules, possibly by the National Academy of Sciences. I want to be assured that the deletion of RCRA no-migration standards will not result in a degradation of environmental standards at WIPP.

Let me say that I appreciate the work of the gentleman. The work of the gentleman from New Mexico [Mr. SKEEN] in responsibly moving this language forward. I do support the provisions affecting WIPP, but would appreciate any comment he has on these matters.

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

Mr. RICHARDSON. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Speaker, I truly thank the gentleman from New Mexico, and it has been a great pleasure working with him on this particular situation. I do appreciate his concerns. A timely opening of WIPP is very important. It is equally critical that the facility opens and operates in a very safe manner.

First, the 1997 opening date is not a hard, statutory requirement, but is contained in a sense of Congress statement. Both EPA and DOE feel that this date is achievable. Obviously the health and safety issues are very, very important, and language has been included to reflect that the site should meet all applicable health and safety standards before disposal operations commence.

This subtitle closely mirrors legislation already approved by the full Committee on Commerce and preserves a strong regulatory role for EPA at WIPP. The facility is also regulated by several other entities, including the State of New Mexico. The combination of these different regulators provides for a broad oversight and regulatory base.

Finally, I can understand the gentleman's concerns about the no-migration standard. As he knows, I have always felt that the Federal Government should be held to the same environmental standards accepted by any other entity in America. This legislation does meet that test. There will be no loss of environmental protection, no impact on human health and safety, and no reduction of the overall safety standards under this language.

The EPA is confident that this regulatory regime will provide and protect human health and the environment. I would like to enter into the RECORD correspondence from EPA which does express this view.

I do so much appreciate the gentleman's concern for his constituents, as I would, and his cooperative work on the subtitle. I also want to recognize the very valiant efforts of the gentleman from New Mexico [Mr. SKEEN], without whose help we would not be here today. Again, I appreciate the gentleman's support and his allowing me to clarify these matters.

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, May 15, 1996.

Hon. TOM UDALL,
Attorney General of New Mexico,
Santa Fe, NM.

DEAR MR. UDALL: The purpose of this letter is to follow-up on our telephone conversation of April 1, 1996, and respond to your letter of April 4, 1996, regarding the Environmental Protection Agency's (EPA) role in the regulation of the Waste Isolation Pilot Plant (WIPP).

The Administration is presently formulating its position on H.R. 1663, the "Skeen-Schaefer Bill" amending the WIPP Land Withdrawal Act (Pub. L. 102–579). I appreciated hearing your views about the legislation and am pleased we had the opportunity to discuss these important issues. The Agency believes that the amended H.R. 1663 is a sound bill and makes critical improvements over its antecedent. As you are aware, the Skeen Bill, as originally proposed, severely limited EPA's regulatory oversight of WIPP and, we believe, did not provide adequate protection of human health and the environment. Mr. Schaefer's amendments retain EPA as the independent regulator of the WIPP, eliminates extraneous requirements, and leaves intact the provisions of the 1992 WIPP Land Withdrawal Act (LWA) that require EPA to certify whether the WIPP facility will comply with the disposal regulations in accordance with public rule-making procedures.

You specifically expressed concern about the impact of the proposed legislation on the WIPP certification process. In particular, that review of individual chapters of the Department of Energy's (DOE) compliance application by EPA would require the Agency to commit to a position on the sufficiency of each chapter without public input. While it is true that EPA will review individual chapters prior to receipt of the full application, the Agency will make no determination on the adequacy of any part of the application until: 1) EPA has received the full application from the department; and 2) public comments have been considered. In fact, the Agency has received the first of these chapters and placed it in the certification docket (No. A–93–02) on May 1, 1996. We will be providing written comments to DOE on these chapters. The written comments will also be placed in the public dockets.

You also raised concerns about the effect of the proposed legislation on the public's opportunity to provide comment on DOE's application. As in the past, EPA will continue to foster an open public process. As you will note in the final compliance criteria (40 CFR Part 194), EPA will hold two 120-day public comment periods after it receives DOE's full compliance application. The proposed legislation will not affect the process established in the compliance criteria. Furthermore, EPA never planned for or created any process for formal public comment on the completeness of the application. Therefore, since DOE is providing the Agency with individual chapters prior to submission of the full application, the public will have an additional opportunity to comment on, and additional time to review, the individual chapters, via EPA's public docket.

Additionally, you were concerned that the proposed H.R. 1663 removes the ability of the Administrator to enforce compliance of the WIPP with any law, regulation or permit requirement described in §9(a)(1) of the LWA. We feel that EPA's ability to ensure compliance with these environmental laws is not compromised by removal of this provision since: 1) the environmental laws described in the LWA contain their own enforcement provisions; and 2) 40 CFR Part 194 imposes requirements that DOE perform remedial actions if the administrator determines WIPP to be in non-compliance with the transuranic waste disposal standards.

Further, with regard to H.R. 1663, you expressed concern about the WIPP being used as a repository for transuranic wastes that did not result from a defense activity. The proposed legislation does not alter the definition of exposure or capacity limits of either remote- or contact-handled wastes set forth in the LWA. If EPA were to certify the WIPP, this provision would allow for disposal of a relatively small amount of waste from a site in West Valley, NY. If WIPP were capable of accepting this waste within the capacity limits of the LWA, it would be imprudent to needlessly spend taxpayer money for a site similar to WIPP for such a small amount of transuranic waste simply because the process which generated the waste was not defense related.

Lastly, I am disappointed that you have elected to bring a legal challenge against EPA's WIPP compliance criteria published on February 9, 1996. The EPA considered the views of all interested parties, including the comments and suggestions made by your office, in deciding the contents of the final criteria. As you know, EPA held two public comment periods totaling 135 days, and conducted a series of public hearings in New Mexico. Ultimately, the Administrator of EPA, exercising her independent judgment, determined the contents of the final criteria. We believe EPA's criteria are sound and will effectively protect public health and the environment.

I want to assure you that EPA will keep communication lines open as it undertakes the public rulemaking proceeding to certify whether the WIPP facility will comply with the final disposal regulations. We recognize the importance of this matter to you and all of the residents of New Mexico.

If you have questions regarding this letter or any other concerns, please contact Frank Marcinowski of my staff at (202) 233–9310.

Sincerely,

MARY D. NICHOLS,
Assistant Administrator for Air and Radiation.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman. I support the provisions affecting WIPP.

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

Mr. Speaker, I rise in support of this rule and this conference report, which authorizes the programs which provide for our Nation's defense which is our common defense. In these uncertain times, which, as we all know, grow more dangerous every day, it is of vital importance that this component of our country's protection continues to be strong. Our foreign enemies—those who seek to disrupt and ultimately destroy our democratic way of life—must know

of our commitment to a strong and capable military able to protect this great Nation. This conference report is a positive step in insuring that our military capability remains strong and vigilant and I urge its adoption.

Mr. Speaker, the conferees have wisely dropped contentious social issues from this agreement, and in doing so, have taken the proper course of action in ensuring that this authorization can be signed into law by the President. While the funding levels are still significantly higher than those requested, I feel confident that this is a bill that can be signed. The increases in funding levels are not for frivolous projects, rather they provide for faster acquisition of important weapons systems which had been planned for purchase in later years.

The agreement does not contain provisions from last year's vetoed bill which had required the deployment of a national missile defense system by the year 2003, nor does it contain language which might have been a violation of the 1972 Anti-Ballistic Missile Treaty. As Members know, these issues, among others, provoked a veto in 1993, and their exclusion this year certainly enhances the chance that this agreement will become law.

This agreement contains provisions which will require that the U.S. Government live up to its obligations. The bill contains a 3-percent pay raise for military personnel and increases housing allowances. The agreement addresses a long and shamefully overlooked matter by authorizing the award of the Medal of Honor to African-Americans who served in World War II and who distinguished themselves by performing with gallantry above and beyond the call of duty. The agreement also contains language which will finally recognize the sacrifice and heroism of those Vietnamese nationals who participated in special operations in North Vietnam or Laos on behalf of the United States Government and who were subsequently captured and imprisoned by the Communist Vietnamese.

I am particularly pleased that the conference agreement contains $1.5 billion for continued development and acquisition of six V-22 Osprey tiltroter aircraft, as well as funds for the acquisition of six additional F-16 fighters. The conference agreement includes $2 billion in funding for research and development for the next-generation tactical fighter, the F-22. Also provided is $2.4 billion for the acquisition of nine C-17 transport aircraft. All these aircraft are important components in our national defense system and the conference is to be commended for funding them in this agreement.

Mr. Speaker, this is a fair rule and a good bill and I urge their adoption.

□ 2115

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I rise in opposition to the rule and to the conference report. I do so mainly because this bill could let the Nation's largest polluter, the Federal Government, more specifically the Department of Defense, the Department of the Interior, GSA, and the Department of Energy off the hook. Under this provision, section 334 would directly amend CERCLA, otherwise known as Superfund, a law that is squarely within the jurisdiction of the Committee on Commerce.

If my colleagues have defense or other Federal establishments within their district, they better be very careful before they vote for this legislation. The legislation will change current law to allow the Federal Government to transfer contaminated property that it owns prior to the completion of the required cleanup of the property.

Remember, this is contamination with high-level hazardous wastes, high-level nuclear wastes and other terribly dangerous substances. This provision may actually delay the cleanup of contaminated Federal properties. This provision will impose upon citizens of this country the possibility or even the probability that there are no adequate or enforceable assurances that the cleanup will be completed by the party who buys the property in a timely manner and in a way which is protective of the human health and environment. The provision should be of particular concern to all of my colleagues who have Federal properties in their district.

This is a defense authorization bill, and, if they vote for it, my colleagues should be aware that this provision applies not only to defense facilities but also properties owned by the Department of Energy, the Department of the Interior and any property under the controls of the General Services Administration. Unfortunately, this provision has not been subject to hearings or examination by the authorizing committees, and no one knows exactly the level of peril which is imposed upon the people of this country.

Equally important is the fact that it has no discernible support except amongst the Federal polluters, and it is interesting to note that people who address the question of pollution of our environment, and who are concerned about protecting the citizens of this country from dangerously contaminated and environmentally degraded areas have expressed particular concern.

The Department of Defense has provided no examples of the need for the sweeping provisions in section 334, but the attorneys general of the States of Michigan, Washington, New Mexico, Texas, Minnesota, and Colorado have written to express their strong opposition to this provision. On behalf of its quarter-million members, the Natural Resources Defense Council has also opposed this provision. Amongst other concerns, these writers question the glaring absence of criteria for determining the suitability of contaminated Federal lands for transfer and the enforceability of cleanup requirements. Indeed the level of cleanup required is in question, insofar as whether the cleanup would be adequate to protect the health and the environment of people who would be affected and who live in the neighborhood.

I urge a rejection of the rule, and I urge a rejection of the conference report.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong opposition to the rule and the conference report on the Defense Authorization Act.

Mr. Speaker, I rise in strong opposition to the rule and conference report on the Defense Authorization Act for fiscal year 1997. I do so principally because it could allow Federal agencies to abdicate their responsibility to clean up hazardous waste sites and address other toxic conditions that they created. It could dump onto States, local governments, and the public the burden of cleaning up federally created toxic waste sites. This includes some of the Nation's most contaminated hazardous waste sites created by the Department of Defense and Department of Energy.

Section 334 of the conference report would fundamentally change current law by allowing the Federal Government to transfer contaminated federally owned Superfund sites before completing cleanup necessary to protect human health and the environment.

Supporters of the provision may claim that it contains safeguards to ensure that the Federal Government will perform cleanups after transferring its contaminated property to other persons. However, serious questions have been raised by State Attorneys General and other stakeholders as to the adequacy and enforceability of the supposed safeguards to ensure that timely and protective cleanups will occur after the Federal Government no longer owns the property it contaminated.

I am particularly concerned that this far-reaching and significant amendment to the Superfund law is being made without any consideration of its ramifications by the two committees of jurisdiction, the Transportation and the Commerce Committees, and without consideration of the views of States, communities, and the public. Letters of opposition from the Attorneys General of the States of Michigan, Minnesota, Colorado, California, Texas and Washington, and from the National Association of Attorneys General and the Natural Resources Defense Counsel, evidence the public's grave concerns with this provision. Moreover, there has been no demonstration of any need for the provision.

If this provision becomes law, Congress will have eliminated any certainty that federally

created toxic waste sites in our communities will be cleaned up in a timely and protective manner. This provision goes in the wrong direction. The Federal Government should be leading the way in cleaning up toxic waste sites. Instead, we are making it easier for the Federal Government to avoid the cleanup responsibilities that we expect of private interests.

This provision should be removed from the conference report and considered by the committees of jurisdiction with the appropriate hearings and markups.

Mr. Speaker, I also am very troubled by an amendment made in conference to another provision in the report. The House bill required the Navy to develop and implement a program to monitor the ecological effects of organotin, a highly toxic ingredient in paints used on Navy vessels. I agree that it is appropriate for the Navy to study the environmental impacts of toxic materials it uses on its vessels. However, section 333 of the conference report adds a provision shifting to the Environmental Protection Agency the obligation to pay such sums as are necessary for the Navy to develop and implement its program. This raid on EPA's budget to supplement the astronomical budget of the Department of Defense is entirely unacceptable.

Finally, Mr. Speaker, I would like to note my understanding that section 324 of the conference report, which amends the Act to Prevent Pollution from Ships, is not intended to limit the Navy's efforts in continuing to develop and implement more efficient and environmentally beneficial garbage disposal technologies.

Mr. FROST. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, I yield back the balance of our time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SPENCE. Mr. Speaker, pursuant to House Resolution 498, I call up the conference report on the bill (H.R. 3230), to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to House Resolution 498, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, July 30, 1996, at page 19993).

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. DELLUMS] each will control 30 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, in an effort to expedite these proceedings, it will be my intention to limit my remarks and also those of the other members of our committee who are going to speak. I know everyone is anxious to get to a vote in a hurry, and so we will do our best to get there. There will be about two speakers we have to her from to carry on a colloquy and some important things to be said, but aside from that we are going to try to limit our remarks.

Mr. Speaker, we have a good conference report. As a matter of fact, there is $1.1 billion less in spending in that bill that passed the House. Like all conference reports, there were concessions on both sides in order to arrive at a conclusion.

The Department of Defense, I have been in touch with them. Secretary Perry supports this report.

I want to thank all of the members of the committee and the panel, panel chairmen for all they have done to bring this report to us and especially the staff who have worked hard and long into the wee hours of the morning to enable us to get to this point this soon. We have set a record, I think, for bringing this report back in the period of time, and so I am going to also thank the ranking minority member, the gentleman from California [Mr. DELLUMS] for his cooperation. We could not have been here otherwise without that.

Like the House-passed bill, the conference report takes a balanced approach toward addressing the numerous quality of life, readiness, and modernization problems our military is facing today. The bill provides for military personnel and their families who represent the heart of the all-volunteer force. It enhances core military readiness by increasing funding for a number of underfunded key readiness and training programs. And like last year's bill, it once again makes great strides in addressing many of the serious problems plaguing the administration's inadequate modernization program to ensure that our troops of tomorrow maintain the technological edge they enjoy on the battlefield today.

The conference report itself is consistent with the Fiscal Year 1997 Budget Resolution and provides $265.6 billion in budget authority for Department of Defense and Department of Energy programs. It authorizes approximately $1.1 billion less in defense spending than the House-passed bill, and represents a real decline in spending of approximately 2.1 percent over current levels. The fact that this bill authorizes defense spending at a level that is $11.2 billion greater than the President's request yet still reflects spending decline, speaks volumes about the extent to which the President's defense budget is underfunded.

On the major issues the conference has to address—issues such as abortion, depots, gays in the military, theater missile defense demarcation, ABM Treaty multilateralization among others—this conference report clearly represents a compromise among many interested parties, including the administration. On balance, this conference report strikes a good balance between many competing and conflicting interests and deserves the support of all members.

I will leave discussion of the many important initiatives in the conference report to my colleagues on the National Security Committee who have worked very hard over the past several weeks—and really since this process started back in February—to get this conference report to the floor this week. In particular, I would like to recognize the diligence, dedication and cooperation of the subcommittee and panel chairmen and ranking members.

As always, I would also like to thank the gentleman from California, the committee's ranking member, for his cooperation. While we may disagree on the substance, my colleague's support of the committee institutionally and his support for the process improves the work we all do.

Finally, Mr. Speaker, let me thank the staffs of the National Security Committee and the Senate Armed Services Committee. They have worked tirelessly all year so that we could have this conference report before the House and Senate prior to the August recess. They have done an outstanding job on a large and complex piece of legislation—and in record time.

Mr. Speaker, raising and maintaining the military is one of Congress's most fundamental responsibilities. This conference report reflects the seriousness with which the National Security Committee takes its responsibility. As a result, it has strong bipartisan backing in both the House and the Senate as well as the support of the Secretary of Defense so I urge all of my colleagues to vote "yes."

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

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

Mr. Speaker, we too will attempt to expedite the process although I do have a few Members who choose to speak and exercise that option to do so.

Mr. Speaker, I Rise in opposition to the conference report on the National Defense Authorization Bill for fiscal year 1997.

First, let me say that the process by which this bill was shaped this year was much improved over last year. My colleagues will remember that the president warned that if certain actions were not taken on the fiscal year 1996 bill, that he would have to veto it, and that is indeed what happened.

This year, several of the major concerns of the administration were attended to as this bill was worked out in conference. For instance:

The section that would require unilateral enactment of the "demonstrated capability" standard for U.S. compliance with the ABM treaty, along with the prohibition on the use of funds to apply any other standard was dropped.

The section that would require Senate approval of any succession agreement adding new parties to the ABM treaty was dropped.

The section that would again, Mr. Speaker, require the discharge of

servicemembers who are HIV-positive was dropped.

The section that would reinstate the total ban on gay men and lesbians in the military was dropped.

However, Mr. Speaker, the President has also warned that there are other problems with the bill—foremost among them a spending level authorized by this bill which in this gentleman's opinion is too high.

Also:

The section that would repeal the provision in law that prevents servicewomen from obtaining safe abortions at military treatment facilities overseas was dropped from the bill in conference.

The section that prevents the sale of constitutionally protected literature on military bases was retained in the bill.

As onerous as these and some other provisions in the bill are, and a number of my colleagues in the context of the discussion and debate on the rule alluded to many of them, I believe that the President will in the end sign this bill.

Mr. Speaker, as I said, I oppose this conference report. I do so primarily because the funding level that is authorized by this bill is a substantial and unnecessary increase over what was requested by the administration for defense spending in the coming fiscal year. I believe that this authorization bill in its entirety takes this country's military spending, trends and policy initiatives in the wrong direction. The overall budget represents increased military spending on items not requested by either the administration or the service chiefs.

This is not only unwarranted, Mr. Speaker, it is shortsighted. It will only lead to large cuts in defense in the outyears as the funding tails associated with these programs come due. As a consequence, we are insuring that we will soon be faced with the decisions that will result in either cuts in the quality of life programs combined with reductions in force structure or cuts in planned modernization programs which will have to be done in midstream resulting in more cost to the taxpayers.

Ironically, Mr. Speaker, and I would reemphasize ironically, this will be causing the very situation we all agreed that we meant to prevent; that is, the work that Members thought had been accomplished over the last 2 years will eventually be negated because of this spending binge.

With these remarks, Mr. Speaker, I respectfully reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WELDON]

□ 2130

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my friend and chairman of the committee for yielding time to me.

Mr. Speaker, I thank both the chairman and the ranking member for their cooperation in bringing forth what I think is an excellent bill that we all should get behind and support. It is an excellent bill because it deals with the quality-of-life issues, issues involving pay raise, cost of living, housing, child care, and all those things that are important for our military personnel around the world.

It also deals with our readiness problem to make sure our troops are properly prepared.

Mr. Speaker, I rise today, however, to ask for the support of our colleagues because it deals in a real way with the two major threats that I think we face over the next several years: that caused from terrorism, and that caused from the proliferation of missiles and weapons of mass destruction.

Mr. Speaker, we fully fund increases in the area of terrorism, far above what the administration requested. Long before incidents were occurring in this country, as we have seen this year, it was this Congress, led by this chairman, who had the foresight to put additional funds into chemical and biological technology, into efforts to allow us to better train those civilian personnel around the country who have to respond and better prepare our military. We deal with terrorism in this bill, and it is a very important priority for us.

Secondarily, we fully fund missile defense technologies, national, theater, cruise, and space-based sensors. In addition, Mr. Speaker, we fund the Nautilus Program for Israel; even though the administration never requested dollars for that program, we fully fund it to make sure that Israel is secure. Unlike the past requests of the administration where they tried to zero out funds for the high-energy laser program, we continue the funding.

In the R&D area, we maintain our technology base with a robust funding profile. We put money in for dual-use technology and capabilities. We fund the new ocean partnerships initiative, with the Navy in the lead.

But I am disappointed in two instances, Mr. Speaker. We should have had the ABM provisions in here dealing with multilateralization and with the demarcation issue. But all is not lost, because in the compromise with the Senate we remained silent. We took out our language and they took out their language.

What does that mean, Mr. Speaker? That means prevailing law is the case. When this administration attempts to amend the ABM Treaty, they must bring back those changes to the appropriate bodies of this institution, the Congress, to achieve support and ratification.

So when this administration tries to dumb down our capabilities through demarcation negotiations in Geneva or through the multilateralization of the ABM Treaty, the Senate will have a rightful role to play in approving those changes before they in fact become law. So all is not lost.

I applaud once again my chairman for the outstanding job he has done for our subcommittee chairman. I think we have a good bill here that everyone should get behind. It may not be perfect, but it certainly deals with the needs of those men and women who are serving our country today.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this conference report. I do hope the President of the United States will sign the bill. There are parts of this legislation that he did not like, and they were taken out. In the conference with the Senate, there were areas that I had a particular interest in. They were dropped in the conference. So I accept, Mr. Speaker, that you never get all you want in these massive bills. I think it is still good legislation.

Mr. Speaker, I have only served on two committees most of the time that I have been in the Congress, which is the Committee on Veterans' Affairs and the Committee on National Security. I have enjoyed working on both of these committees and am very proud of the excellent veterans programs we have, better than any other Nation, for our veterans. With the defense bill today, we still have the strongest defense force in the world.

Mr. Speaker, this will be the last time I will be involved in the defense bill. I want to thank the gentleman from California [Mr. DELLUMS] on my side of the aisle, for his courtesies over the many, many years. I say the same for the gentleman from South Carolina, FLOYD SPENCE, our chairman, for his fairness; and to my colleagues and staffers on our committee, I thank them for the help and understanding they have shown to me.

Mr. Speaker, it has been a wonderful ride for me over the last 28 years. I support this legislation.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997.

This bipartisan legislation will make significant improvements in our military installations and facilities.

The conference agreement would add $850 million above the President's request for military construction and military family housing programs. When the bill left the House, it strongly emphasized needed enhancements of the quality of life for military personnel and

their families. The conference agreement on military construction reflects the philosophy of the House position.

Sixty percent of the added funding above the line will be dedicated to military housing and other quality of life improvements. Earlier this week, the Subcommittee on Military Installations and Facilities which I chair, held a hearing on the quality of life issue. The senior enlisted officers of the military services testified about the link between the quality of life for military personnel, retention, and readiness.

We also heard from a very articulate group of dedicated military spouses who spoke about the practical problems they face in military life. No one who heard their stories could ever suggest that the additional housing, child care centers, and other improvements contained in this bill are not a wise use of our resources.

With this bill, we will commit an additional $201 million to the President's request of $562 million for troop housing. For just over 3,000 military families, we will provide an additional $266 million to construct new quarters or improve existing units—a 39 percent increase to the request. For child development centers, the bill would add $30 million for nine needed centers in addition to funding the $6 million construction cost for the two centers requested by the Administration.

This bill also funds important facilities improvements to enhance the operational and training requirements of the active forces as well as the reserve components.

I am grateful for the strong bipartisan support for the military construction portion of this authorization conference report, led by the ranking member of the subcommittee, SOLOMON ORTIZ. I am also particularly pleased that Chairman VUCANOVICH and Mr. HEFNER with the Appropriations Committee have successfully brought back an appropriations conference report that supports this bill.

I urge my colleagues to support H.R. 3230.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana, [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in strong support of this conference report. I want to recognize that while there are many good things in this bill, I am disappointed by two items contained in the bill, one of which I know many of us have had discussions here with regard to and we will take up in separate legislation regarding the missing persons, the MIA issue, Missing Personnel Act.

The other issue is concerned with the provision contained in the cooperative threat reduction portion of the bill. While I agree with measures that reduce the threat posed by weapons of mass destruction, I am concerned about the language in the bill that provides emergency powers to the military. I believe this additional exception to the Posse Comitatus Act represents a further drift toward increased military involvement in domestic law enforcement activities.

Mr. BARR of Georgia. Mr. Speaker, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Georgia.

Mr. BARR of Georgia. Mr. Speaker, I appreciate the distinguished gentleman from Indiana, a member of the conference, yielding for a colloquy.

Mr. Speaker, I understand that the gentleman worked to remove very disturbing legislative language from the conference report that weakens posse comitatus protections. The language constitutes a serious erosion of the historic and firmly held belief in our country that our military should not become involved in domestic law enforcement.

This principle is enshrined in posse comitatus provisions in our criminal code. However, in the conference report, the military is, in certain situations, given the power to make civilian arrests, conduct searches and seizures, and gather domestic intelligence. While these powers are limited to situations involving weapons of mass destruction, they are extremely troublesome because they are unnecessary and directly involve the military in domestic law enforcement.

I fought hard to have these provisions removed, and I know that the gentleman from Indiana did the same. I regret that the conference report retains the Senate language, which was never presented to this House for proper consideration. It is my understanding, however, we will be working together at the earliest opportunity to have these ill-conceived provisions removed.

Mr. BUYER. Reclaiming my time, Mr. Speaker, I want to assure the gentleman from Georgia that in subtitle A under "Domestic Preparedness," section 1313, military assistance to civilian law enforcement officials in emergency situations involving biological and chemical weapons, there is an exception that is granted to the military that they are not authorized to participate in the following actions: Number one, arrest; number two, any direct participation in conducting a search or seizure of evidence to a violation of this section, or direct participation in the collection of intelligence for law enforcement.

But this goes beyond that, Mr. Speaker. Subsection 382(2)(b) is the section on which I want to work with the gentleman in the next military defense bill to remove that provision from this bill, and I want to salute the gentleman from Georgia's leadership to strike the proper balance between individual civil liberties and the protection of an American citizen's rights, along with the Posse Comitatus Act and its restraints upon the U.S. military's involvement in domestic law enforcement.

I encourage Members to vote for this bill. We will work toward that end.

Mr. BARR of Georgia. I appreciate the gentleman's support.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. SKELTON].

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

Mr. Speaker, for American uniformed personnel currently deployed overseas in contingencies such as Bosnia, Korea, the Sinai, and Saudi Arabia, I rise in support of this conference agreement, and urge my colleagues to work towards this passage.

This agreement addresses my personal concern about the way in which military personnel may be employed in the future. It contains necessary funding for today's readiness and quality-of-life matters and, no less importantly, accelerates critical military programs of tomorrow, allowing for purchases of new equipment sooner rather than later.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER], the chairman of our Subcommittee on Procurement.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding time to me. Let me start out by thanking the gentleman for all the great work that he has done on this bill, the great leadership he has given us, and the fairness and decency with which he has conducted the entire oversight process. Let me also give kudos to my friend, the gentleman from California, Mr. DELLUMS, for being an outstanding minority Member in this process, and ranking member, and really sowing the seeds for the bipartisanship that we have had in this year.

I want to thank all of the subcommittee chairmen who worked this bill, because they are all great people; the gentleman from California, BOB DORNAN, the gentleman from New York, Mr. MCHUGH, the gentleman from Pennsylvania, Mr. WELDON, the gentleman from Colorado, Mr. HEFLEY, the gentleman from Virginia, Mr. BATEMAN, and all of their counterparts on the Democrat side, and my old friend and compadre, the gentleman from Missouri, IKE SKELTON, for the great bipartisanship that he displayed. I remember the meetings we had, some in his office, some in my office, working military issues.

Mr. Speaker, we undertook to do a few things in this bill that were important for the American people. We had hearings on the safety of our fighter aircraft that were crashed in a series of crashes beginning in January of this year. Both F-14s and AV-8Bs went down in high numbers. We had good oversight hearings and we came up with fixes and recommendations by the Navy and the Marines that we followed. We put those fixes into this bill. We spent a lot of time on ammunition. We came up with extra ammunition for the Marine Corps and Army. The gentleman from Missouri [Mr. SKELTON] and I want to see more ammunition for

the Marine Corps and Army, but we will get that in the next session.

We armed the bombers. We thought it was important in this enormous investment in long-range strike capability to put the precision-guided munitions that served us so well in Desert Storm on those bombers. We did that.

We continued through with our reform of the submarine program to widen that qualitative edge that we have over other nations of the world. We did a lot of things to give the right kind of equipment to the men and women who wear America's uniforms.

The gentleman from South Carolina, FLOYD SPENCE, did a wonderful job putting this package together. There were some things we would rather have seen on the House side, some things that dropped out, but it was a compromise between the Senate and the House. We are going to work those other issues next year. I would urge a yes vote on this package.

Mr. DELLUMS. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I will add to what my colleague, the gentleman from California, said. This has been a great conference in a bipartisan way, for which I want to thank the chairman, the gentleman from South Carolina [Mr. SPENCE], and the ranking member, the gentleman from California [Mr. DELLUMS]. They did a wonderful job on a very complicated thing.

Tonight, Mr. Speaker, I am extremely concerned about section 1616 of the conference report. I am putting down my marker now, and the committee's marker, I think. This section would initiate a pilot program at unspecified DOD facilities, privatized-in-place by BRAC 1995. It places no limit on how many pilot programs there will be.

It allows Federal employees who work for the contractor to continue to accrue credit for years of Federal service in order to determine civil service retirement eligibility. I repeat again, working for the private contractor this would happen.

Although the conference report specifies that these calculations will not be used to determine the amount of their retirement, I worry about what this may cost in the years to come. I know why this happened. It was not because of the House, the representatives. It was not our bill, and to a degree we were almost forced to accept this provision.

Although everyone assumes it applies to Louisville, which was the Naval Surface Warfare Center, my concern is that it will be a very costly provision that will not stop with Louisville or Indianapolis. GAO says this pilot program could cost over $511 million, which is over a half-a-billion dollars, in 11 years. That is with only several hundred employees.

What will happen when Texas and California want the same thing for employees at Kelly and McClellan? How can we say no? What will it cost when we include tens of thousands of employees? I see nothing in the legislation to limit this to Louisville. The way I see it, it would apply to every facility privatized in BRAC 1995.

The whole point of BRAC was to reduce excess infrastructure and overhead by privatizing in place and establishing portable benefits. We do precisely the opposite. We sustain excess infrastructure and keep the overhead. I am really disappointed that the Department of Defense did not take exception to this. Where are the savings? We would make a far greater contribution to national security by maintaining the status quo, protecting our Federal employees, and calling off wholesale privatization. By allowing the so-called pilot program to go forward, we ensure we will never attain the savings we were supposed to get from BRAC.

□ 2145

All of us worry about underfunded modernization in O&M accounts. But the conference report states, "The military department concerns shall be liable for the portion of any estimated increase in unfunded liability of civil service retirement."

We do not know where this is going. We do not know where it will stop, and we do not know what it will cost.

The conference report includes the GAO study. But directing GAO to do a study after the fact will not be enough to put the brakes on this policy. Once it gets going, the cost will not matter. Politically, it will be impossible to go back.

My other worry is that this is a backdoor way to push privatization by making it more palatable to Federal workers. I can safely say that I stand second to none in my concern about Federal employees, but this is a divide-and-conquer strategy if there ever was one.

In closing, the most unfortunate thing is that this bill is so good, has many other constructive features, and does so many other things we need to do for our military. I will support the conference report.

But section 1616 plants a seed that would threaten to overwhelm our ability to pay for national security in the years ahead. I ask Members to support the conference report, but be aware, section 1616 could create a long-term problem that could come back to haunt us in years to come.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Jacksonville, FL [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in strong support of the fiscal 1997 Defense authorization conference report.

This bill builds on the actions this House strongly endorsed last year: Improving the quality of life or our military personnel and their dependents; enhancing the readiness of our military forces; ensuring that our combat equipment is appropriately modernized; and providing for additional structural reform at the Pentagon.

The bill provides $10.8 billion more than the President requested for fiscal year 1997. However, this is not even enough to keep pace with inflation. Given the many threats to America's interests overseas and the number of operations other than war to which this administration has committed our forces, the funding levels in this bill are not only appropriate, but necessary.

I am especially pleased that H.R. 3230 keeps faith with our military personnel and families, in July I visited Bosnia, where our troops are doing an outstanding job under trying conditions. Like so many military members today, though, they are being called upon to leave their families behind more frequently, and for longer periods, than ever before. This bill increases military pay and other benefits and provides additional funds for family housing—improvements that are sorely needed if we hope to retain our best people over the long-term.

I also want to note my appreciation that the conference chose to retain current law regarding depot maintenance and repair issues. I hope the Pentagon will take heed of this action and conclude at last that it ought not proceed with ill-conceived plans to privatize closing installations. The base closure process was designed to eliminate excess capacity. Efforts to evade this requirement for political gain are incompatible with National Security interests.

Finally, I want t thank our very able chairman, FLOYD SPENCE, his leadership in securing an excellent bill. I also want to thank the committee staff for the very hard work and dedication they contribute to this process.

Mr. Speaker, I urge my colleagues' support for this conference report.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, I rise in support of this conference report and would like to particularly lend my strong support and endorsement of the military construction title of the bill. I greatly appreciate the leadership of both sides of the aisle and in both Chambers for their commitment to compiling what I believe to be a truly bipartisan legislative package to address our Nation's military construction backlog.

The military construction portion of the bill places a very strong emphasis on quality of life initiatives and addresses our military's need for modernization. I am extremely pleased that we have been successful in protecting the priorities of the House by allocating the quality of life programs the

bulk of additional funds which have been made available for military construction this year.

I think that it is important to point out to my good friends and colleagues that during the entire deliberation process, we were careful to fund those projects that were identified by the military services as a top priority.

Furthermore, this conference report continues our commitment to stretching housing dollars and increases the funds available for public-private partnership initiatives.

I think that this portion of the Defense authorization bill makes a strong statement of this Congress' bipartisan concern for our military and commitment to maintaining readiness and modernization.

The conference report is certainly not perfect, but on balance I believe that this is a good bill that emphasizes readiness and quality of life projects, and I congratulate the gentleman from Colorado, Chairman HEFLEY, the gentleman from South Carolina, Chairman SPENCE, and the gentleman from California, Mr. RON DELLUMS, our ranking minority member, for a job well done. I encourage my friends and colleagues to vote for this conference report.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Speaker, I want to highlight one part of this bill that deals with nuclear weapons. As far as the eye can see, our country will continue to rely on nuclear weapons for our security, and yet we face some very daunting challenges.

Our weapons and facilities are getting older, and we have decided not to engage in nuclear testing. We are going to have to have first-rate facilities, first-rate people and an efficient management structure to get through this time. This bill advances all three.

It is particularly important that we have clear lines of authority and clear lines of responsibility between each facility in the nuclear weapons complex and the headquarters in Washington without a lot of mid-level management getting in the way. There have been a number of outside organizations and internal reviews that have called for exactly this kind of reform, and yet this bill is the first time that it has actually taken place.

Each facility will report directly to Washington and will be a part of a management council. This is a safety issue for the country, it is a good and efficient Government issue, and it is also a preparedness issue, and it is just one of the many ways that this bill helps make the country safer.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in strong support of the conference report.

Mr. Speaker, the military personnel title provisions in the conference report to H.R. 3230 solidly support quality of life and readiness efforts. These provisions reflect Congress' continued support of our military service members through significant enhancements in these areas.

The bill includes a 3-percent military pay raise, as proposed in the President's budget, as well as a 4.6-percent increase in the basic allowance for quarters that will reduce out-of-pocket housing costs to service members by 1 full percent. To ensure our junior military members can afford safe and adequate housing in high-cost areas, a minimum variable housing allowance is provided, as well as other reimbursements so that military members are not forced to use their personal savings to offset the cost of a Government-directed move.

This conference report is another step toward providing active duty and retired service members and their families with accessible and quality health care. For example, it restores $475 million to the Defense Health program, a shortfall that, if not remedied, would have had serious adverse consequences for active-duty family members and retirees who have a difficult enough time already trying to obtain medical care in military facilities.

Additionally, it takes a significant step forward with regard to the issue of Medicare subvention by directing the Secretary of Defense and the Secretary of Health and Human Services to submit a plan for testing Medicare subvention to Congress and the President by September 6, 1996. The plan would establish a demonstration program enabling the Department of Health and Human Services to reimburse the Department of Defense for care provided to Medicare-eligible military retirees.

Other key initiatives of the military personnel provisions of the conference report to H.R. 3230 include: adding $20 million to the New Parent Support program to help new military families and parents deal with new stresses associated with the high military operating tempo. Challenging hate group activity in the armed services by directing the services to conduct human relations training designed to promote a sensitivity to hate group activity. Adding nearly $50 million more than the President's budget for the Army military personnel account to minimize the readiness impact of continued shortfalls in that account.

In addition to the personnel titles, the conference report to H.R. 3230, taken as a whole, represents a strong balance between people, readiness, and modernization. It will result in the continuation of a ready, able, and quality military force. I urge my colleagues to support the conference report.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Speaker, I rise in support of this bill. Let me say to my friend, the gentleman from Mississippi, Mr. SONNY MONTGOMERY, we will miss you and may God bless you.

I commend the chairman and the ranking member for working in a true spirit of cooperation throughout the process leading up to this bill, being passed in committee and through its conference.

I would also commend the work done by the bipartisan depot caucus which focused on the very difficult issue of defining the work to be done at the various service departs. The members of this caucus and the respective staff worked tireless hours and achieved a result that will be very beneficial to the men and women serving in our armed services.

Mr. Speaker, this bill, among other things, provides for a pay raise for the members of each branch of our military and also provides a significant benefit for members of the dental profession serving in the military, benefits like this will allow our armed services to continue to compete with the private sector for the very finest young men and women our country has to offer.

This is a good bill and I urge my colleagues to support it.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. WATTS].

Mr. WATTS of Oklahoma. Mr. Speaker, I am very pleased to rise in support of the National Defense Authorization Act for fiscal year 1997. This is a strong and substantive bill that bolsters and fortifies our national defense and greatly improves the quality of life for our Nation's servicemen and women. It also puts more money in veterans programs.

I want to especially congratulate the gentleman from South Carolina [Mr. SPENCE] who so ably crafted this legislation. Thanks to the chairman's leadership, we have the opportunity to vote for a very significant and strong bill today, or this evening. I also want to thank the gentleman from California, [Mr. DELLUMS], who in victory or defeat is always the consummate professional.

I am delighted with the quality of life improvements this bill makes. We must never forget the sacrifices that our service personnel make in our behalf, even in peacetime. I am especially pleased to see we are increasing impact aid by $35 million over the President's request for zero funding.

This bill strengthens America's state of readiness in a still dangerous world. I stand in favor of H.R. 3230, and I urge my colleagues to vote in support of this very important legislation.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I want to thank the gentleman from California [Mr. DELLUMS] for so many years of courtesy and professionalism. It is an

honor to serve on the committee with him, and also say to everyone how much I will miss the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. Speaker, I rise in strong support of the Defense authorization conference report which, though hardly perfect, moves us in the right direction.

This House has made some tough votes in recent days—particularly on welfare reform. As the Wall Street Journal said yesterday, we are ending welfare as we know it and creating welfare as we don't know it.

That is true of our national security as well. The cold war threat we knew has ended and a world we don't know has begun.

This bill, nonetheless, takes some important steps. First, the bill makes critical investments in key weapons and technology programs that our Nation will need in order to meet the expected war-fighting requirements of the next century. The dangers posed by a new range of regional threats and technologies are growing.

As we reduce forward-basing, we need weapons with which we can project force quickly and decisively—weapons which can deter aggression before we are required to deploy personnel and equipment. This bill includes funds for such weapons, like the B–1 and B–2 upgrades, the F/A–18 and the C–17. It also includes research funds for a robust national and theater ballistic missile defense system as well as technologies aimed at counter-proliferation and antiterrorism.

Many of these investments will, in the long term, also save money by reducing the ever increasing operation and maintenance costs of weapons systems that have been in use well past their designed life span.

Second, the bill includes an initiative which I helped author to re-organize the function and fund the development of cost-shared dual use technology—thus protecting our industrial base and reducing costs by developing products, technology, and processes that meet both defense and commercial needs.

As my colleagues know, we can not afford maintaining an industrial base that only meets unique military requirements. We need to diversify that base and not only apply defense technologies to commercial use but, more importantly, use commercial technologies and products to meet defense needs. The dual-use technology provision in the bill will help achieve this important goal.

There are also missed opportunities. I strongly supported changing the 60–40 rule relating to military depots, in order to permit more private sector work at competitive rates. That opportunity was lost and, as a result, we are burdened for another year by costs that could have been directed to more critical needs, whether military, domestic, or deficit reduction. Another opportunity will present itself next year and I hope my colleagues will seize it.

We also need to aggressively reduce administrative overhead at the Pentagon. This bill takes some steps in that direction, but last year's mandate that the defense workforce be reduced has not been implemented. The bill before us again directs the department to implement these cuts. The bill also begins the process of streamlining, consolidating, and downsizing the inefficient headquarters organizations of the military departments.

We must do more to cut costs. We must privatize more non-core defense activities, accelerate procurement reforms, and rely on more dual use technologies, products, and processes.

But cutting is not enough: rethinking our roles and missions for the digital battlefield of the 21st century is imperative. I anticipate that we will reduce forward positioning and manpower requirements while making increased investments in intelligence gathering, deep strike capability, and new systems and technologies that increase lethality, reduce response time, and protect and enhance the survivability of our forces.

But we need to review and reassess our defense assumptions in a place and time when partisanship and election sound-bites are absent. Hopefully, that work can begin soon after the election is over.

I urge support for this conference report. It is not perfect, but it makes an important contribution to the difficult national security choices we face in the years ahead.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I want to salute both the chairman as well as the ranking member for their leadership during the past year. It has been superb. They have really set a standard.

I think that there is a lot that we can be proud of in this bill. I am certainly glad to see the retention of the depot language for the 60/40 split, but I am also proud that we have finally introduced the concept of multiyear procurement. We have expanded the concept from the C–17 program, which is going to see a procurement of 80 aircraft over the next 7 years, but we are also not cutting the budget, we are not increasing it, we are maintaining stable funding. A good part of that stable funding is being used to add to a multiyear procurement plan for Aegis destroyers, the result of which is going to be that over the next 5 years, if the plan is fulfilled, we will produce one more destroyer at $1 billion less in cost, or, if you will, 15 destroyers over 5 years for $1 billion less than it would cost us to buy 14 through normal procurement methods.

Again with the threats we face in the world, now is not the time to cut defense but at the same time through more efficient management we can stabilize the funding and get more value for our dollars.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker I have a list:

Head Start; antiterrorism efforts at airports and elsewhere; NIH research; cops on the street; drug treatment programs; cleaning up hazardous waste sites; housing for the elderly; aid to college students, Pell grants, student loans; the Community Development Block Grant Program; child care; and earned income tax credit.

If we funded the Defense Department at what it asked, we could give each of these programs an additional $1 billion. Every one of these programs is $1 billion poorer because we decided to play Santa Claus to the Defense Department. We did not end welfare. We just transferred it. We transferred it to Western Europe and Japan. Our European allies spend an average of 2 percent of their gross domestic product on the military. We spend 4 percent. It is in this $11 billion gift we gave.

The greatest gift any nation ever gave to another is the free military defense we provide to Japan so it can keep its military spending at such a minuscule level. Every Member here who votes for this bill who has ever told someone, "Gee, I would like to have given you more for child care in the welfare bill. I couldn't afford it." Or, "Gee, I wish we could have cleaned up that hazardous waste site. We couldn't afford it."

"Yes, Project Head Start is a good program, I wish we could do more."

"Oh, I'm sorry you didn't get your cops on the street application. If we could only have increased it, you would have gotten more."

"And elderly housing, boy, of course we could use more elderly housing."

Would you also tell them that you spent it here? Do not tell them that you wanted to do that if you vote for this bill without telling them that you took $11 billion more than the Pentagon asked, which goes to help defend Western Europe against I do not know what, which goes to defend Japan against people they want to trade with, that is where this money went.

□ 2200

So the next time we tell people we are sorry NIH was not bigger, we are sorry we did not do more on the earned income tax credit or child care or Cops on the Street, please also tell them that we gave $11 billion more to the Pentagon than they wanted. Please also tell them that programs like the Community Development Block Grant

could have got another $1 billion, one-eleventh of that, and that would have been 25 percent of what they got.

If we have cut anything else, please give them the full picture about the $11 billion giveaway to Western Europe and East Asia.

Mr. SPENCE. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of final passage of the 1997 national defense authorization bill because it is a step in the continuation of a national defense with which New Mexico plays a vital role.

Specifically, this bill is very important for remediation of our Nation's nuclear waste problem. The WIPP land withdrawal amendment contained in this bill is a long overdue piece of legislation which will cut through the bureaucratic red tape that has kept this vitally important project from opening. WIPP has been proven safe in every conceivable scientific fashion and is the beginning of the end of our Nation's nuclear waste problem.

We have worked long and hard to draft a piece of legislation which will address both the environmental and disposal concerns and this is it. Both the DOE and the EPA support this legislation.

It is time to quit wasting taxpayer dollars and time to permanently dispose of waste that is currently stored in aboveground containers on asphalt pads, and it is time to quit talking about what we cannot do and start going about what we can do.

We have complete confidence in the ability of DOE, EPA, and the State of New Mexico to open WIPP in a safe and timely manner.

I want to particularly thank the people of Carlsbad for their tireless work to make this project happen, and also a special thanks to the gentleman from New Mexico [Mr. RICHARDSON] for his support, and also to the gentleman from Colorado [Mr. SCHAEFER] for all the hard work and diligence, and to the chairman and his committee for presenting this thing and finally bringing this Gordian knot to the present, for slicing it open and getting on with the business of storing nuclear waste.

Mr. DELLUMS. Mr. Speaker, I reserve the balance of my time, until such time as the gentleman from South Carolina [Mr. SPENCE] reaches his last speaker.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like specifically to address section 334 of the defense authorization conference report, which my good friend, the gentleman from Michigan, [Mr. DINGELL] referred to earlier during the debate on the rule. This section amends the Superfund program with respect to the transfer to Federal facilities before contamination is remediated.

The general idea of section 334 is laudable: To assimilate polluted properties back into the community. However, without an ironclad assurance that States can enforce the ultimate cleanup of these sites, the good idea quickly becomes a curse to communities.

Attorneys General from Colorado, California, Texas, Washington, Minnesota, and New Mexico, to name a few, have warned about the possible implications of section 334. They are concerned that any cleanup assurances made by the Federal Government will be hollow and unenforceable.

Superfund does not contain an adequate waiver of sovereign immunity. Federal entities will initiate transfers and disappear and the liability will go back to private entities, and we cannot have this. I will introduce legislation next year to correct this.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in strong support of this conference report and applaud the chairman and the ranking member for their leadership. The disagreements were of a substantive nature and not partisan.

The reason I support increasing the budget over what President Clinton asked for is because the need is very real. This report increases funding for the F–18 CD program, it increases funding for R&D on the next generation of Patriot missiles, and, importantly, it increases funding for the quality of life for our men and women in uniform.

People ask why do we need to increase funding over what President Clinton has asked for? Very simply, President Clinton has decided to send troops to Haiti and he has decided to send troops to Bosnia, and he has put them on heightened alert elsewhere around the world. Even though I did not support all of those actions, and perhaps others in the Chamber did not as well, it is imperative that we all support our troops with the training and equipment they need to complete their mission and to return them home safely.

That is why we have to add more money than President Clinton asked for. The Pentagon does not set its own budget request. This is what President Clinton asked for. We are adding more money to that.

Just as President Clinton signed the budget last year, I think he will sign the defense budget this year. We need it to support our troops. I urge every Member to support this report.

Mr. SPENCE. Mr. Speaker, I have no further requests for time, and even though I have the right to close, I will yield back the balance of my time and let the gentleman close out.

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

Very quickly, Mr. Speaker, first, I would like to point out to my colleagues that this is the last conference report for five of the distinguished members of this committee, and all five of these Members happen to be Members on the Democratic side of the aisle.

I would like to refer to them in order of their seniority, the gentleman from Mississippi, SONNY MONTGOMERY; the gentlewoman from Colorado, PAT SCHROEDER; the gentleman from Alabama, GLEN BROWDER; the gentleman from Texas, PETE GEREN; and the gentleman from Florida, PETE PETERSON, and simply say to them that they will be missed, thank them very much for the dignity of their service to this country and to this Congress and wish them well in the next phase that they enter into in life's process.

Second, Mr. Speaker, if Members will recall, last year we complained about the process, arguing that there was a lack of participation on the part of the minority members of this committee in the process. I would rise tonight to say that there was a quantum step forward and improvement in that area.

My colleagues did participate in the process, and though it was truncated, dictated by a very ambitious schedule, to the extent possible, I feel comfortable in saying, without fear of contradiction, that my colleagues participated in that process.

Third, I would like to say something that is not often spoken on the floor of this House, and that is that I believe very strongly that no Member of Congress could function adequately and capably without competent, capable and dedicated staff people.

It is not often known that many of these staff people work night and day, all night, over weekends to get this job done. When we leave here, after we have made agreements, someone has to sit down and reconcile the hundreds of pages, thousands of paragraphs, millions of words and billions of dollars. It is all done at the staff level. So I would like to take the opportunity to thank all of the staff members for their significant dedication and contribution to this process.

Finally, Mr. Speaker, on a substantive note, I note most of my colleagues here, with the exception of the distinguished gentleman from Massachusetts, [Mr. FRANK] and myself, rose in support of this conference report. I rose in opposition to the report. That is not to say that I do not believe that there are some significant, important and constructive items in this bill and policy in this bill. But as we step back and look at the totality of it, I believe that this bill is going in the wrong direction.

When we find ourselves having communicated to millions of American people that virtually every segment of American society has had to make some sacrifice as we go about the business of "balancing the budget", where we have even included poor people and children and powerless people who have had to contribute to that process, whether it is in the form of welfare reform, reductions in education, reductions in environmental restoration funds or whatever, we find ourselves with a conference report here today that does not reduce but rather increases by $11.3 billion money above and beyond what was requested by this administration in the context of a post-cold-war era.

I think that is a stark statement. I think it needs to be laid clearly and profoundly before this body in this auspicious moment when we find ourselves whacking away at programs designed to enhance the quality of life of millions of American people in this country.

The gentleman from Massachusetts [Mr. FRANK] said it eloquently and articulately, and I would not attempt to compete with that, but simply to remind my colleagues that this bill is $11.3 billion above the President's request and $1.3 billion above the appropriation request. At this time I see no rational reason why we should be increasing our military budget at this particular level in the context of the post-cold-war world.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this conference report and ask unanimous consent to revise and extend my remarks.

I oppose this conference report for many reasons, including the fact that it appropriates over $11 billion more for defense programs than the Pentagon requested. But one of the main reasons why I oppose this conference report is that it fails to protect the rights and health of American servicewomen serving overseas. As you all know, the House version of the bill contained a ban on military women purchasing abortion services on military bases overseas with their own funds. This provision remained in the bill despite bipartisan efforts to remove it. The Senate rejected this provision outright.

This ban penalizes women who have volunteered to serve their country by prohibiting them from exercising their constitutionally protected right to choose. It also puts the health of our military women at risk by forcing those stationed in countries where there is no safe and legal abortion available to seek an abortion at local facilities or to travel to acquire safe abortion services.

It is unimaginable to me and to the American people that we would reward American servicewomen who have volunteered to serve this Nation by burdening them this way. I urge you to vote against this report.

Mr. MCKEON. Mr. Speaker, I rise in support of the conference report for H.R. 3230, the National Defense Authorization Act. This legislation addresses several basic needs for our military including a 3 percent pay raise for military personnel and a cost of living adjustment and improved access to health care for military retirees. The bill also supports modernization initiatives and will improve the overall readiness of our Armed Forces. These points are increasingly significant as the threat of terrorism continues to rise.

We must not forget that the men and women of our military face this threat every day, and it is our responsibility to ensure that our troops are trained and equipped accordingly. I realize that some individual Members may have reservations about this conference report, but I would respond by asking that we take a moment to think about the men and women who have volunteered for the difficult task of defending our Nation. They deserve our support today. I urge a yes vote.

Mrs. SCHROEDER. Mr. Speaker, here are six reasons to vote against the fiscal year 1997 DOD authorization conference report:

First, the measure provides: $11.3 billion more than the Pentagon requested overall, $7 billion more than requested for procurement, $3.8 billion more than requested for BMD, $508 million more than requested for NMD, $234 million more than requested for C–17 transport planes, $281 million more than requested for tactical aircraft, $203 million more than requested for helicopters, and $701 million more than requested for submarines.

Second, overseas abortions are not permitted under the conference report. The Senate receded to the Dornan position.

Third, the conference report does not include Dornan provisions on HIV positive servicemembers and gays in the military.

Fourth, the conference report retains the Bartlett ban on selling pornography at the PX.

Fifth, the conference accepted CAROL MOSELEY-BRAUN's amendment to prevent servicemembers from rolling their military retirement into their civil service retirement to avoid payment to former spouses with the provision that it is not retroactive, and that no one can sue a servicemember for taking advantage of the loophole.

Sixth, the report provides $15.95 million for nonlethal weapons and technology development and an additional $5 million for the services to procure nonlethal weapons.

Mr. FAZIO of California. Mr. Speaker, I rise in support of H.R. 3230, the fiscal year 1997 Defense authorization conference report.

While I am concerned that this bill provides more money than the Pentagon has requested, this legislation addresses many of the important needs expressed by the Department of Defense and the Joint Chiefs.

I disagree, however, with the Republican leadership that the current defense posture of this administration is weakening our core defense capabilities. One only needs to look to the Republican budget resolution passed in the spring to see that their out year projections for defense spending are roughly that of the administration. In fact, I would simply like to point out that the Democratic alternative, otherwise known as the coalition budget, keeps defense spending on a path that sustains U.S. national security throughout the next century. I am concerned that the current rationalization for spending more than the Pentagon has requested in fiscal year 1997 will lead to unsustainable defense budgets in the years 2001 and 2002.

Nevertheless, I support this bill because the alternative is to not have an authorization bill. We have been down that road before. Last year the Defense appropriations bill, which is normally supposed to follow the authorization bill, was passed first and the fiscal year 1996 DOD authorization bill was not passed until this past spring.

I support this bill because it eliminates most of the contentious and unwarranted provisions that were contained in the House-passed bill and the bill that was vetoed last year by the President. Because these provisions were eliminated, we are able to move this bill in a more expeditious and bipartisan manner than last year's authorization bill.

I am pleased that the conferees eliminated the onerous provisions that would discharge HIV-positive service personnel and the earlier House provision that would have rescinded the "don't ask, don't tell" policy governing gays in the military.

I am also happy that the leadership did away with language that would have mandated early deployment of space based sensors or "star wars" as a central component of U.S. missile defense policy, thus violating the ABM treaty and endangering Russia's ratification of START II.

Additionally, this bill provides for a 3-percent pay raise for military personnel, equal to the President's request, and establishes January 1, 1998 as the fiscal year 1998 military retiree cost of living adjustment [COLA] date. Both of these important provisions maintain Congress' commitment to those who serve and those who have served our military. This bill also directs the Secretary of Defense and Secretary of Health and Human Services to submit a plan to Congress and the President outlining the details of a Medicare subvention demonstration program.

While I am generally pleased with the end product of this bill, I am deeply concerned that this bill fails to address the issue of depot maintenance and the so-called 60–40 rule. Ironically enough, it was the House last year that boldly called for the repeal of the so-called 60–40 rule in order to give DOD greater flexibility in outsourcing non-CORE workload to the private sector.

I understand that many of my colleagues are concerned that the Pentagon will engage in wholesale privatization of the Pentagon's defense industrial base and maintenance activities. That simply is not the case and flies in the face of the evidence. The elimination or modification of the 60–40 rule would have moved away from the arbitrary standard currently used for depot workload allocation to a more rational approach that will better serve the long term national interest. The Pentagon's report made clear that public depots have and will continue to play a major role in the important maintenance capabilities of the military.

Greater reliance on the private sector for appropriate types of depot maintenance, and determining where it makes sense, will enhance faster infusion of new technologies into existing DOD weapons platforms. Testimony offered by the service Chiefs this year supported removal of legal constraints on DOD's

ability to efficiently manage its system support resources, including the arbitrary 60–40 rule and the three million dollars threshold. If this Congress is serious about saving money, privatizing government functions other than the House mail room ought to be given serious consideration and not empty rhetoric. To that end, I am hopeful that we will be able to address this important issue next year and come to some sort of compromise that all members can agree to.

Mr. Speaker, this bill is not perfect, but it addresses many important issues that confront the military today.

Mr. BILIRAKIS. Mr. Speaker, although I intend to support the conference report for H.R. 3230, I do have concerns about several aspects of the bill.

Congress included H.R. 945, the Missing Service Personnel Act, in the FY96 Department of Defense Authorization Act. As a cosponsor of H.R. 945, I was pleased that this important legislation was finally enacted into law.

The Missing Service Personnel Act, as contained in Section 569 of Public Law 104–106, consists of a number of critical provisions that provide due process for the families of missing service members who are desperately seeking honest information about the fate of their loved ones. The conference report revokes key provisions contained in this law. As a result of the these changes:

Civilian Defense Department employees stationed in hostile fire zones will no longer be covered by the Missing Service Personnel Act, meaning that DOD will not be required to account for civilian employees who might be captured by enemy forces or who disappear during combat.

Unit commanders will be permitted to wait 10 days—rather than 48 hours, as required by current law—before reporting that a service person is missing or unaccounted for.

Criminal penalties for someone who knowingly and willfully withholds information about the disappearance, whereabouts or status of a missing person will be repealed.

Missing service persons can be declared dead without credible proof. If a body is recovered and is not identifiable by visual means, forensic certification will no longer be required.

In addition, current law provides for automatic review every three years after an initial report of disappearance. The enactment of H.R. 3230 will repeal this requirement and provide that cases will be reviewed only when information is received.

We have a responsibility to determine to the fullest extent possible the fate of our missing personnel and to share that information with next of kin. What kind of message are we sending to the brave men and women in the Armed Forces if we repeal the Missing Service Personnel Act? A service member deserves to know that we will do everything in our power to account for their whereabouts if he or she is reported missing.

The POW/MIA issue is one in which I have been involved during my entire Congressional career. As a member of the House Veterans' Affairs Committee and as an Air Force veteran, I made a vow to myself long ago never to give up the search. I am disappointed that H.R. 3230 repeals the Missing Service Personnel Act which was only enacted into law earlier this year.

I am also disappointed that conferees did not include provisions from the Senate bill, S. 1745, which would have benefited certain widows of military retirees.

As my colleagues may know, several legislative changes have been enacted over the years to allow regular and reserve retired members to ensure that their survivors will continue to receive a percentage of their retired pay upon their death. However, these changes have created two categories of forgotten widows by omitting any benefits for survivors of members who died before they could participate in the new Survivor Benefit Plan.

The Survivor Benefit Plan (SBP), enacted in 1972, replaced an earlier unsuccessful program. DOD offered an 18-month open enrollment period for members already retired. This SBP open enrollment period inadvertently created the first category of forgotten widows—widows of retirees who died before the SBP was enacted or during the open enrollment period before making a participation decision.

In 1978, the law was changed to allow Reservists the opportunity to elect survivor benefit coverage for their spouses and children when completing 20 years of qualifying service. However, it did not provide coverage for widows of Reserve retirees who died prior to its enactment. Thus, the second category of forgotten widows evolved—the pre-1978 reserve widows.

Additionally, in 1948, when the Civil Service Survivor Benefit Plan was enacted, it also created some civil service forgotten widows. This was resolved 10 years later in 1958 by authorization of an annuity of up to $750 per year for the widow of a civil service employee who was married to the employee for at least five years immediately before the retiree's death, had not remarried and was not entitled to any other annuity based on the deceased employee's service.

As a group, forgotten widows are older women 60 to 90 years of age whose husbands retired with 20 to 40 years of service to our country. Despite all of the efforts to bring in other groups of survivors into the SBP, widows, whose husbands died in retirement prior to 1972, have remained forgotten.

Today, all military forgotten widows have to show for their husbands' career service is memories, while the 1958 $750 civil service benefits equates to more than $3,600 in 1994 dollars. The military forgotten widows deserve at least the minimum SBP annuity allowed under current law.

Section 634 of the Senate Defense Authorization Act addressed this important issue and would have provided forgotten widows with a monthly annuity of $165 per month. This provision of S. 1745 was similar to a bill which I introduced. My bill, H.R. 1090, has received bipartisan support and has over 40 cosponsors.

I was hopeful that the conferees would retain the language from the Senate bill in the final conference report for H.R. 3230. Unfortunately, it was excluded for budgetary reasons.

I will continue to work on this important issue in the 105th Congress. Military service does not take place in a vacuum and I hope that we will provide these elderly widows with the help they deserve.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this conference report.

I oppose this conference report for many reasons, including the fact that it appropriates over $11 billion more for Defense programs than the Pentagon requested. But one of the main reasons why I oppose this conference report is that it fails to protect the rights and health of American servicewomen serving overseas. As you all know, the House version of the bill contained a ban on military women purchasing abortion services on military bases overseas with their own funds. This provision remained in the bill despite bi-partisan efforts to remove it. The Senate rejected this provision outright.

This ban should have been removed at conference. Removing it would not obligate any State funds. It would merely allow military women and dependents to use their own money to pay for abortion services at military bases, just as they would use their own funds to pay for those services if they were in the United States.

The ban contained in the conference report penalizes women who have volunteered to serve their country by prohibiting them from exercising their constitutionally protected right to choose. The irony that this Congress will limit the constitutional rights of the very women who have sacrificed so much to protect our Constitution should not be lost on any of us.

This ban also puts the health of our military women at risk. Many of these women are stationed in countries where there is no access to safe and legal abortions outside of the military hospitals. A woman forced to seek an abortion at local facilities, or forced to wait to travel to acquire safe abortion services, faces tremendous health risks.

It is unimaginable to me and to the American people that we would reward American servicewomen who have volunteered to serve this nation by burdening them this way. I urge you to vote against this report. Thank you.

Mr. BLUMENAUER. Mr. Speaker, I strongly support providing our troops the basic equipment they rely on in the field. Adequate military housing and medical facilities are also wise uses of our scarce resources. In providing for the defense of our Nation, there is no substitute for having well-trained, well-equipped military personnel.

Besides providing for the needs of our troops, the bill before us today includes funding for exotic weapons systems and missile programs. Much of the high-tech gadgetry included in this bill was neither requested, nor is needed by the Department of Defense.

While I will continue to vote to improve the lives of those serving in our armed forces, I cannot support this bill. The real military needs of our country, as well as pressing domestic concerns prevent me from doing so.

Mr. LIVINGSTON. Mr. Speaker, I rise in support of the conference report to H.R. 3230, the fiscal year 1997 National Defense Authorization Act.

I do so because it provides the support for our troops and their families that this administration did not when they submitted their budget request earlier this year.

Yet, this bill still represents a decrease from 1996 when you take inflation into account.

Why do we need to pass a bill that keeps defense at level spending rather than cut almost $11 billion as the President originally proposed?

Because it provides the funds to stem the continued deteriation in family housing, military health care, and our procurement programs.

This bill adds much needed funding for new barracks and improvements to family housing units that will benefit approximately 3,000 families.

This bill restores $475 million to health care for our military and their families, a shortfall that was glaring in the President's original request.

This bill funds the 3 percent military pay raise and a 4.6 percent increase in housing allowances for our military.

And, we funded O&M and other readiness accounts to stop the reductions in our military forces below the levels required by the administration for all of its overseas deployments.

This bill trys to slow down the continued decline in procurement which has suffered a 70 percent decline since 1985.

Most importantly, this bill maintains the commitment we made last in this Republican Congress' first defense bills to actually deploy effective missile defenses by 2003 or earlier.

It is this Congress that has added over $900 million for theatre and national missile defense programs to keep us on track to deployment, not simply continue research as the President recommends.

It is this bill and the appropriations bills that have added $246 million for the Navy Upper Tier program, the most promising and near term theatre missile defense program.

The Administration's budget request simply kept the Navy Upper program as technology development program with no certain date for deployment.

On the policy side this bill did drop bill language, because of veto threats, that required the administration to submit changes in the ABM Treaty to the Congress.

However, Republican and Democrat conferees clearly stated in the manager's report that any substantive change to the ABM Treaty be done in accordance with the Constitution and the treaty making powers of the Senate.

And, that this constitutional principle had been permanently codified with regard to the ABM Treaty in the 1995 Defense Authorization Bill, Public Law 103–337, and remains in effect.

Most importantly, the conferees, Democrat and Republican, stated in their conference report that the President's National Security Advisor, Mr. Lake, told House and Senate Members from both parties in a meeting within the last 2 weeks that the tentative agreements the U.S. has recently announced with various Russian republics regarding theatre missile defenses and their demarcation constitutes a substantive change to the ABM Treaty.

I refer all Members to Page H9250 of the July 30, Part II, Congressional Record. This page contains the conferees statement that I just referred to.

The conferees statement for this bill is clearly consistent with a provision this House adopted and I sponsored as part of the fiscal year 1997 Commerce, State, Justice appropriations bill.

That provision requires the President to certify that he will submit to the Senate for its advice and consent any amendments or changes to the ABM Treaty regarding the demarcation between theatre missile defense systems and antiballistic missile systems or any changes regarding the multilateralization of the ABM Treaty.

I commend Chairman SPENCE and his staff for all of their hard work and urge support of this important conference agreement.

Mrs. SCHROEDER. Mr. Speaker, last June I asked the Secretary of Defense to answer a few questions about growing numbers of military personnel on loan to Members of Congress under questionable circumstances. To date, I have not received a reply. Now I know why. They are too embarrassed.

Pentagon officials have learned that the their haphazard and uncontrolled lending of military personnel to Hill offices violates Congressional ethics rules, not to mention DoD's own regulations.

The situation is so bad DoD has admitted it has no idea how many military officers are working on the Hill. The estimates range from dozens to more than one hundred.

Here are a few examples. The Joint Chiefs of Staff have magnanimously given the Speaker of the House four military officers to help him analyze votes. The training, salaries, and benefits for these officers cost the taxpayers hundreds of thousands of dollars. Yet they are now doing political chores for the Speaker. Another Member of Congress has had an Army nurse on his staff for years.

Some Members of Congress are actually calling the Pentagon and requesting specific officers by name. "Can you send Captain Midnight up to my office to help out for a year?"

Pentagon leaders believe that by detailing staff up here they can ingratiate themselves with Members of Congress. In other words, the goal is to keep Members happy and grease the wheels for Defense appropriations.

Those of us who been around for more than a few years can recall the House Post Office scandal and the House Bank scandal.

My colleagues who are serving their first term can now look forward to the House DoD Staff Scandal.

Mr. WALKER. Mr. Speaker, the Defense Authorization bill agreed to by conferees is a solid piece of legislation, which represents an honest effort to reach compromise among all parties, and I will vote for final passage. Nevertheless, there is one provision in the bill that concerns me, and which I feel obligated to address. There is a section in the bill entitled, "Prohibition of Collection and Release of Detailed Satellite Imagery Relating to Israel," which, from the time of enactment on, will prohibit the United States Government from licensing American commercial remote sensing companies to collect or disseminate imagery of Israel that is more detailed than imagery that is available from other, non-American commercial sources. This provision contradicts bipartisan efforts by Congress and the executive branch since 1984 to promote commercial remote sensing as a leading sector of the American aerospace industry. Ultimately, I believe this provision is bad for both the United States and Israel.

This provision was offered as an amendment to the Senate defense authorization bill without hearings, debate, or any other public discussion. Originally, it was considerably more restrictive, but conferees were able to address some of my specific concerns. Nevertheless, this prohibition remains unnecessary and counterproductive. It sets back our efforts to reinvigorate the U.S. aerospace industry through commercialization, and contradicts traditional American principles such as open skies and freedom of information.

I believe that the sponsors of this provision are concerned with Israeli national security, which is a concern that I share. Israel has always had a special place in American policy and always will. But, this provision does nothing to improve Israeli security. Aircraft flying in international airspace can already image Israel in greater detail than that licensed by commercial satellites, which the United States Government cannot prevent and which this measure does not address.

In the long run, by forcing United States industry to surrender its advantage to foreign entities, this amendment will take control over the shutters of commercial remote sensing satellites out of the hands of the United States Government and place it in the hands of the French, Russians, Chinese, Indians, Brazilians, and any other number of countries that are working on commercial remote sensing satellites. None of these countries is likely to be as sensitive to Israeli security as we are, but this provision will place more power over imaging Israel in their hands. Consequently, this will undermine Israeli security in the long run.

Some might believe that we should accept this measure as a symbol of the United States commitment to Israeli security. Symbols have a place, but not when they do real harm to our national interests, in this case, our interest in promoting commercial space development and U.S. global leadership. The commercial remote sensing industry is in its infancy; like a newborn, it is highly vulnerable to sudden changes in its environment. The simple fact is that business can't flourish if we keep changing the rules, and this provision changes the rules. There are measures in current law, policy, and regulation that enable the U.S. Government to restrict the operations of U.S. commercial remote sensing satellites if needed for U.S. national security, foreign policy, or international obligations. This provision essentially throws that rational process out the window and provides a predetermined answer. Under such capricious Government action, it will become increasingly difficult, if not impossible, for private American firms to raise investment capital, and so the section threatens the entire industry. That's bad for American aerospace workers, who have suffered enormously under defense cuts in the last few years.

The U.S. Government has gone through the process of considering U.S. and allied security interests when it issued nine licenses to U.S. companies for commercial remote sensing as detailed as one meter. None of those licenses places restrictions on imaging Israel. So, the Government has already been through a rational policymaking process which found no interests were served by prohibitions on imaging Israel. Furthermore, this section of the bill only calls on the Government to place possible restrictions on licenses issued in the future, after it becomes law. It does nothing to retroactively affect the United States companies for whom the Government has already issued licenses, and on which the Government placed no restrictions about imaging Israel.

I fear that this provision will constrain U.S. industry in the future and give its competition a commercial advantage. The Wall Street Journal reported in February that organizations owned by the Israeli Government were going to partner with United States firms to offer commercial remote sensing services similar to those offered by American companies. The trade weekly Space News printed an interview with the head of the Israeli Space Agency on July 29 in which he said that the state of Israel was trying to enter the commercial remote sensing market in partnership with Germany and Ukraine. If we believe the head of the Israeli Space Agency, then the result was be a protected market for Israel at the expense of United States aerospace workers and companies.

In general, this provision demonstrates an inadequate understanding of our contemporary times. It seeks to prohibit the creation and distribution of information, which authoritarian governments have tried and failed to do for decades. The genius of our system, and one reason our economy continues to grow, is that Americans believe in the wide exchange of information. In the Information Age, that gives us natural advantages because information naturally spreads. One builds economic strength and protects national security in the information age by winning technological competitions and staying at the forefront of technological change. This section of the bill seeks to prevent that and takes us in the wrong direction. It is a well-meant, but misplaced effort that I hope we will not repeat in the future.

Mr. DELLUMS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KINGSTON). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DELLUMS. In its present form, yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DELLUMS moves to recommit the conference report on the bill H.R. 3230 to the committee of conference with instructions to the managers on the part of the House to insist on section 367 of the House bill (relating to impact aid assistance to local educational agencies for the benefit of dependents of members of the Armed Forces and civilian employees of the Department of Defense).

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. DELLUMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 181, nays 236, not voting 16, as follows:

[Roll No. 396]

YEAS—181

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (NE)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Blumenauer
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Christensen
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Dornan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gonzalez
Goodling
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Montgomery
Moran
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Stupak
Talent
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Weller
Wise
Woolsey
Wynn

NAYS—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Chabot
Chambliss
Chenoweth
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—16

Brownback
Dickey
Ford
Gibbons
Lincoln
Manton
McDade
Rose
Scarborough
Schroeder

Stark
Studds
Williams
Wilson
Yates
Young (FL)

□ 2229

Mr. CUNNINGHAM and Mr. SHADEGG changed their vote from "yea" to "nay."

Mr. CRAMER, Mrs. KELLY, Mr. MARTINEZ, and Mr. BARRETT of Nebraska changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KINGSTON). The question is on the conference report.

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

Mr. DELLUMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 285, nays 132, answered not voting 16, as follows:

[Roll No. 397]

YEAS—285

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TN)
Bunning
Burr
Buyer
Callahan
Calvert
Canady
Castle
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Ensign
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McHale
McHugh
McInnis
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Millender-McDonald
Miller (FL)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Reed
Regula
Richardson
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Visclosky
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff

NAYS—132

Ackerman
Andrews
Baesler
Barrett (WI)
Becerra
Bellenson
Berman
Blumenauer
Blute
Bonior
Borski
Brown (OH)
Bryant (TX)
Bunn
Burton
Camp
Campbell
Cardin
Chabot
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
Danner
DeFazio
Dellums
Deutsch
Dingell
Doggett
Dornan
Doyle
Durbin
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Filner
Foglietta
Foley
Frank (MA)
Franks (NJ)
Furse
Ganske
Gutierrez
Gutknecht
Hall (TX)
Hilliard
Hinchey
Hoekstra
Hutchinson
Jackson (IL)
Jacobs
Johnson, Sam
Johnston
Kaptur
Kennedy (MA)
Kleczka
Klug
LaFalce
Lantos
Leach
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McIntosh
McKinney
Meehan
Menendez
Miller (CA)
Minge
Moakley
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Ramstad
Rangel
Riggs
Rivers
Roemer
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Smith (MI)
Stockman
Stokes
Stupak
Talent
Tiahrt
Towns
Upton
Velazquez
Vento
Volkmer
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Zimmer

NOT VOTING—16

Brownback
Dickey
Ford
Gibbons
Johnson (CT)
Lincoln
Manton
McDade
Rose
Schroeder
Stark
Studds
Williams
Wilson
Yates
Young (FL)

□ 2237

Ms. ROYBAL-ALLARD changed her vote from "yea" to "nay."

Mr. HANCOCK changed his vote from "nay" to "yea."

So the conference report was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 397, I was unavoidably detained. Had I been present, I would have voted "yes."

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

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

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1316, SAFE DRINKING WATER ACT AMENDMENTS OF 1996

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–743) on the resolution (H. Res. 507) waiving points of order against the conference report to accompany the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF MEMBER TO HOUSE OF REPRESENTATIVES PAGE BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 127 of Public Law 97–377, the Chair announces the Speaker's appointment of the following Member of the House to fill a vacancy on the House of Representatives Page Board: Mrs. FOWLER of Florida.

There was no objection.

COMMUNICATION FROM THE HON. JOHN TANNER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN TANNER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that Doug Thompson, Legislative Director in my Washington, D.C. office, has been served with a subpoena issued by the Superior Court of the District of Columbia in the matter of Johnson, et al. v. Public Housing Authorities Directors Association, et al.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JOHN TANNER,
Member of Congress.

REQUEST TO CONCUR IN SENATE AMENDMENT TO H.R. 2739, HOUSE OF REPRESENTATIVES ADMINISTRATIVE REFORM TECHNICAL CORRECTIONS ACT

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2739) to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment.

The SPEAKER pro tempore (Mr. FORBES). The Chair does not recognize the gentleman from California at this time for that purpose.

□ 2145

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FORBES). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MIDDLE CLASS TAX RELIEF: REDUCE THE BEER TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. ENGLISH] is recognized for 5 minutes.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I represent part of Western Pennsylvania, a region which gave rise to the Whiskey Rebellion, one of America's first tax revolts. Today, working families in our area face a higher tax burden than ever before—So I am pleased to introduce today information that provides strong support for H.R. 3817, a bill to provide meaningful tax relief to average Americans.

If enacted, this bill will eliminate the $1.7 billion federal tax increase imposed on more than 80 million American beer drinkers since 1990. And with good reason.

Most working Americans have little conception of the level at which they are taxed. Certainly, average men and women know that they pay a personal income tax and the FICA tax and they probably notice the state sales tax that is levied on many of the products they buy. But these taxes are only the tip of the iceberg. It's important that average Americans understand how much of the total tax burden they bear is invisible to them. I am talking about hidden taxes that are buried in the purchase price of products ranging from beer to bread to gasoline. Because they are concealed, these taxes engender little opposition from the taxpayers. But they contribute tangibly to the cost of living for hardworking Americans.

It is particularly appropriate to look at beer because the weight of an unfair tax system is heaviest on average Americans when they lift a cold one. The hidden taxes on beer are exceptionally high, and they fall overwhelmingly on average Americans who are already doing more than their fair share to support the government.

To fully understand how heavily beer drinkers are taxed, I submit to this body a powerful study completed by the economic research firm DRI/McGraw Hill. According to this analysis, taxes represent fully 43 percent of the retail price of beer. This astonishing conclusion is arrived at by tabulating federal and state excise taxes, state and local sales taxes, taxes on corporate and personal earnings, in fact, of all the taxes that go into a bottle or can of beer. Not just the taxes people see but all the taxes.

The beer tax is an excellent example of how unseen taxes—taxes that don't require government to be as accountable to the public—can lead to a misallocation of the tax burden across our society. To appreciate this, I ask you to remember the circumstances under which the federal excise tax on beer was raised in 1990.

That year, Congress imposed a tax increase not only on beer but also on luxury items. Persons purchasing luxury automobiles would have to pay more—as would those buying yachts, private airplanes, furs and jewelry.

While I do not like hidden taxes or tax increases, I understand the symmetry of a tax policy that says, "If we're going to impose a discriminatory tax on beer drinkers * * * let's do the same for yachtsmen." After all, nearly two-thirds of the beer consumed in the U.S. is purchased by households earning $45,000 a year or less.

But, look what has happened since the 1990 tax package was passed. The tax on yacht owners has been repealed. So has the tax on private airplanes. And so has the tax on people buying jewelry and furs. In fact, only the tax on luxury autos remain—and, a few weeks ago, we voted to phase out that provision.

In each case, the rationale offered for removing these luxury taxes on unemployment. But that same logic applies to beer. In fact, the beer tax increase eliminated tens of thousands of jobs—an impact that dwarfs that of all the luxury taxes, combined.

Mr. Speaker, I suggest that the hidden nature of the beer tax increase contributed directly to this unfortunate outcome. If hardworking, average Americans knew how much they pay in taxes on beer—and if they understood how those taxes cost jobs—the 1990 beer tax increase would have been repealed long before now.

But it is by no means too late to act. By repealing the 1990 tax, we can largely undo the damage that was done six year ago. DRI/McGraw Hill estimates that eliminating the 1990 tax hike would put millions of dollars back into the pockets of working Americans who drink beer. It would increase beer sales by more than 2 percent—and it would create 50,000 jobs in our nation's economy.

Moreover, the study also found that increased employment, reduced demand for Government services, and other macroeconomics effects, would offset fully 75 percent of the budget impact of repealing the beer tax.

I ask my colleagues to consider the evidence, and join with me—and with Representatives ENSIGN, CHRISTENSEN, and BLUTE, who are cosponsors of this bill—in supporting H.R. 3817.

STUDY GOALS AND SCOPE

The goal of the DRI/McGraw-Hill research was to identify all taxes associated with the brewing industry.

Tax burdens include: taxes paid at all stages of production, distribution, and sales; taxes related to sales, income, profits, and payroll; taxes paid to Federal, state, or local governments.

A standard procedure was adopted to obtain reliable, consistent study results.

The data sources for the calculations are public, published information primarily from the Department of Commerce and the Internal Revenue Service, allowing confirmation of the conclusions by any interested parties.

Economic value-added components and taxes are presented in both absolute magnitudes (billions of U.S. dollars) and proportions (shares of value added and effective average tax rates.)

1993 was the most recent year for which all necessary data was available, thus this is the reference year for all computations.

SUMMARY OF FINDINGS

The tax burden borne by beer consumers is far higher than average for the U.S. economy.

Taxes represent 43 percent of the retail price of beer. In comparison, total Federal, state, and local taxes equal 30 percent of final sales of all products [GNP] in the U.S. approximately 20 percent at the Federal level and 10 percent at the state-local level depending on the year.

In the reference year (1993), taxes on beer raised just under $21 billion. The income generated by beer industry manufacturers and related sales and distribution partners added $8.6 billion in Federal personal income, profit, and payroll revenues and $2.6 in similar state-local revenue. Sales and excise taxes on the beer value-added chain added a further $9.1 billion to government coffers.

Summary Table

Tax Burdens Through the Production Chain
(Billions of Tax Dollars Paid on Value Added)

	Sales & Excise Taxes	Income, Profit, & Payroll Taxes		Total Taxes
		Federal	State & Local	
Retail Services	$ 2.48	$ 3.64	$ 0.73	$ 6.85
Wholesale Services	$ 1.37	$ 1.34	$ 0.29	$ 3.00
Transportation Services	$ 0.03	$ 0.13	$ 0.03	$ 0.20
Producer (incl. spec. taxes)	***$ 5.23***	***$ 3.49***	***$ 1.58***	***$ 10.30***
Producer-direct	$ 0.06	$ 3.49	$ 1.58	$ 5.13
Special product taxes	$ 5.17	$ -	$ -	$ 5.17
Net Imports	$ 0.01	$ -		$ 0.01
Total Tax	**$ 9.13**	**$ 8.60**	**$ 2.63**	$ 20.36

The Value-Added Chain

	Dollars	Percent
Retail Services	$ 17.39	37%
Wholesales Services	$ 7.06	15%
Transportation Services	$ 0.63	1%
Producer (incl. spec. taxes)	***$ 21.59***	***45%***
Producer-direct	$ 16.42	35%
Special product taxes	$ 5.17	11%
Net Imports	$ 0.82	2%
Total Value Added	**$ 47.50**	**100%**

Tax Dollars Paid as a Percent of Value Added

	Sales & Excise Taxes	Income, Profit, & Payroll Taxes		Total Taxes
		Federal	State & Local	
Retail Services	14%	21%	4%	39%
Wholesale Services	19%	19%	4%	42%
Transportation Services	5%	21%	5%	31%
Producer (incl. spec. taxes)	***24%***	***16%***	***7%***	***48%***
Producer-direct	0%	21%	10%	31%
Special product taxes	100%	0%	0%	100%
Net Imports	2%	0%	0%	2%
Total Tax	**19%**	**18%**	**6%**	**43%**

To relate this information to a more common consumer experience, the following information has been scaled to a per-bottle basis.

Tax Detail on a Per-Bottle Basis:

Total Consumer Cost Per Bottle	**$0.77**
Breakdown of 43% of cost that is taxes:	
Sales and excise taxes	**$0.15**
Federal income, payroll, and other taxes	**$0.14**
State and local income, payroll, and other taxes	**$0.04**
Sum of Taxes	**$0.33**

Stages of Production Tax and Business Cost-Per-Bottle (US$)

Cost		Taxes
$0.09	Suppliers to Brewers	$0.04
$0.11	Brewing	$0.12
$0.07	Transportation/Wholesaling	$0.05
$0.17	Retailing	$0.11
$0.44	Totals	$0.33

Stages of Production Tax and Business Cost-Per-Bottle (%)

Cost		Taxes
12%	Suppliers to Brewers	6%
14%	Brewing	16%
9%	Transportation/Wholesaling	7%
22%	Retailing	14%
57%	Totals	43%

METHODOLOGY

This DRI/McGraw-Hill study identifies the economic value-added chains and tax burdens of the beer industry. Data taken from a variety of sources including the Bureau of Economic Analysis [BEA] National Income and Product Accounts, the 1993 Internal Revenue Service [IRS] Corporation Source Book of Statistics of Income, and the BEA's most recent Benchmark Input-Output Accounts of the United States were utilized to calculate the value added and associated tax burden along the process of production, transport, and distribution.

Description of summary table

The table which precedes this section of the report contains three sections: Tax Burdens Through the Production Chain, The Value-Added Chain, and Tax Dollars Paid as a Percent of Value Added. The first section, Tax Burdens Through the Production Chain, is a compilation of tax calculations from the supporting table contained in the Data Appendix which follows. "Sales and Excise Taxes" in the summary table were taken from the columns labeled "Total Taxes: Indirect" on page 2 of the supporting table. Taxes associated with retail beer sales are the sum of on-premise (eating and drinking establishments) and off-premise (grocery and liquor stores) activities. The "Income, Profit, and Payroll Taxes" in the summary table represent all other taxes as calculated in the tables in the Data Appendix. "Total Taxes" on the summary page are equal to the "Grand Total" as found in the supporting table.

The middle section of the summary table, The Value-Added Chain, was also taken directly from the supporting table, and is discussed at length below. In each step of producing, transporting, and distributing beer to the consumer, value is added through the employment of workers, the depreciation of capital, and the realization of profit. Each line item, in billions of dollars, represents a portion of the total final national expenditure for beer.

The last section of the summary table, Tax Dollars Paid as a Percent of Value Added, simply divides the values in the first section by the values in the second. This section indicates the relative tax burden that the beer industry bears at each stage of production and distribution. For example, 43 percent of the total value added to the economy by the beer industry represents taxes of one form or another. A large portion of the taxes on the beer industry are paid at the prouder level.

Description of supplementary tables

The top-line number used for the beer industry is a total domestic consumption 1 number for the year 1993. (See, for example, page 1, cell B17 of the supplementary table entitled, "Brewing Industry Data Appendix".) For beer, the dollar values for total consumption—which include both at home and restaurant expenditures—were sourced from the National Income and Product Accounts, "Personal Income and Outlays," produced by the BEA.

In order to arrive at a domestic production and distribution number—i.e., how much U.S. companies produce and distribute—we adjusted the total consumption number by subtracting imports and adding in exports. The source for these trade figures is the publication Trade and Employment produced jointly by the Bureau of the Census and Bureau of Labor Statistics.

The total consumption number adjusted for trade for each good was then decomposed into its value-added chain, i.e., producer's contribution, transportation services, wholesale services, and retail services. For beer, the producer's contribution is the 1993 shipments value from the Annual Survey of Manufacturers prepared by the Bureau of the Census. The input-output accounts were again used to estimate the transportation, wholesale and retail services along each product's value-added chain.

The producers' contribution to value added includes the value added of all suppliers to the manufacturer. These inputs are then further detailed in the bottom half of the beer industry table with the distribution among the various inputs derived from the input-output accounts. The value of these inputs depreciation and other small value-added contributions of the manufacturer are reported as "Other Value Added." For example, in the supplementary table for the brewing industry, the value of beer shipped by manufacturers is roughly $17 billion. "Other Value Added" is $13 billion of which approximately $10 billion is brewing inputs detailed in the lower half of the table.

Taxes on labor

Labor compensation was calculated as a portion of industry output and each associated link along the value-added chain. Wages and salaries (taxable compensation) were taken as a percentage of total labor compensation calculated through statistics presented in the National Income and Product Accounts. Effective tax rates for Federal payroll and income and state and local income for 1993 were multiplied by wage and salary compensation, and are listed under the "Taxes on Labor" columns, specified in millions of dollars.

Effective tax rates were calculated as the gross tax receipts as documented by the National Income and Product Accounts divided by the relevant tax base developed by DRI/McGraw-Hill. For example, the average Federal personal income tax rate for 1993 was 11.7% *Marginal* Federal tax rates begin at 15 percent and rise to 39.6 percent, but exemptions and deductions reduce the ratio of taxes to income to 11.7 percent. Similarly, tax credits and other adjustments reduce the effective Federal corporate income tax rate from the statutory 35 percent to a 32.2 percent effective average rate.

Taxes on profits

Profits were calculated as industry-specific percentages of revenue based on data in the Corporation Source Book of Statistics of Income compiled by the IRS. These profit margins were then multiplied by the revenues associated with the calculated value-added components. Federal, and state and local profit taxes are taxes on corporate profits. Federal, and state and local taxes are taxes on dividends and capital gains realized by shareholders; we estimated these dividends and gains as corporate profits minus taxes. As noted above, the effective average tax rates were calculated by DRI/McGraw-Hill using inputs from the National Income and Product Accounts.

Tax on other value added

Other value added includes items such as depreciation and non-corporate income, and represents additional taxable output to the economy. Depreciation, for example, represents capital expenditure and thus, income to firms that provide related goods and services. Effective Federal and state tax rates that are applied to the general economy were multiplied by a calculation of other value added along the relative production chains for each analyzed industry.

Indirect taxes

Indirect taxes represents all sales, excise, and product-related taxes. Sales taxes and non-tax government payments (e.g., licenses, fees, penalties) were calculated as a percentage of total output through input-output accounts, with the exception of retail taxes. These taxes were calculated based on tax rates presented in a study by the Institute on Taxation and Economic Policy. Product-related taxes (e.g., alcohol) were calculated from reliable industry-specific literature.

Data Appendix

Brewing Industry Data Appendix

Page 1 of 2

	A	B	D	E	F	G	H	I
1	**Analysis of Beer Industry (in $ millions)**					**Tax Rates**		
2	**Distribution of Value Added**					**Effective**		**1993**
3					a	Federal Payroll:		17.0%
4					b	Federal Income:		11.7%
5					c	State/Local Income:		3.7%
6					d	Federal Profit:		32.2%
7					e	State/Local Profit:		5.7%
8					f	Federal Tax @ GNP:		19.4%
9					g	S/L Tax @ GNP:		10.8%
10								
11								
12								
13		**1993**	**Total**	**Wages**				**Other**
14		**Beer**	**Labor**	**as % of**	**Wages**	**Pre-tax**	**Indirect**	**Value**
15		**VA**	**Comp.**	**L.C.**	**& Sal.**	**Profit**	**Taxes**	**Added**
16	Formula				D*E			
17	**Total Domestic Consumption**	47,969.5						
18	**Exports**	233.7						
19								
20	Retail (net of alcohol taxes)	17,392.0						
21	E&D shares	51.60%	51.60%	51.60%	51.60%	51.60%	51.60%	51.60%
22	Eating & Drinking (& sales tax)	8,974.3	5,848.7	84%	4,894.3	591.7	1,300.2	1,233.6
23	Off-premise	8,417.7	5,336.2	85%	4,555.6	410.0	1,184.5	1,487.0
24	Wholesale Services	7,063.0	4,141.3	84%	3,466.0	218.0	1,368.4	1,335.3
25	Transport. Services	633.2	398.2	78%	309.4	15.9	30.2	189.0
26	Domestic Brewers' Contribution*	16,422.0	1,952.4	80%	1,565.7	1,160.3	58.0	13,251.3
27	Imports	1,055.0					14.4	
28	Federal Alcohol Taxes	3,339.3					3,339.3	
29	State Alcohol & License Tax	1,831.4					1,831.4	
30	**Total Brewer & Dist.**	**47,969.5**	**17,676.8**		**14,791.0**	**2,395.9**	**9,126.3**	**17,496.2**
31	* excluding Fed. & State alcohol taxes							
32								
33	**Detail: Value of Domestic Beer**							
34	**Value of Brewer Inputs**	**8,551.5**						
35	Agriculture	222.8						
36	Food Products	261.1						
37	Malt	615.1						
38	Glass Containers	1,466.2						
39	Metal Containers	3,416.1						
40	Paperboard	498.8						
41	Transport	223.8						
42	Wholesale Trade	328.3						
43	Advertising	1,085.0						
44	Other	434.2						
45	**Tot. Suppliers (VA)**	8,551.5						

Brewing Industry Data Appendix
Page 2 of 2

	K	L	M	N	O	P	Q	R	S	T	V	W	X	Y
1	**Analysis of Beer Industry (in $ millions)**													
2	**Taxes on Value Added**													
3														
4														
5		**Taxes on Labor**			**Taxes on Profits**				**Tax on Other VA**		**Total Taxes**			
6		**Fed.**	**Fed.**	**S/L**	**Fed.**	**Fed.**	**S/L**	**S/L**			**Fed.**	**S/L**		**Grand**
7		**Payroll**	**Income**	**Income**	**Profit**	**Income**	**Profit**	**Income**	**Federal**	**S/L**	**Factor**	**Factor**	**Indirect**	**Total**
8	Formula	F*a	F*b	F*c	G*d	G*(1-d)*b	G*e	G*(1-d)*c	I*f	I*g	L,M,O,P,S	N,Q,R,T	H	V+W+X
9	**Total Domestic Consumption**													
10	**Exports**													
11														
12	Retail (net of alcohol taxes)													
13	E&D shares													
14	Eating & Drinking (& sales tax)	832.0	572.6	181.1	190.5	46.9	33.7	14.8	239.3	133.2	1,881.4	362.9	1,300.2	3,544.5
15	Off-premise	774.4	533.0	168.6	132.0	32.5	23.4	10.3	288.5	160.6	1,760.5	362.8	1,184.5	3,307.8
16	Wholesale Services	589.2	405.5	128.2	70.2	17.3	12.4	5.5	259.0	144.2	1,341.3	290.3	1,368.4	3,000.0
17	Transport. Services	52.6	36.2	11.4	5.1	1.3	0.9	0.4	36.7	20.4	131.8	33.2	30.2	195.2
18	Domestic Brewers' Contribution*	266.2	183.2	57.9	373.5	92.0	66.1	29.1	2,570.8	1,431.1	3,485.7	1,584.3	58.0	5,128.0
19	Imports												14.4	14.4
20	Federal Alcohol Taxes												3,339.3	3,339.3
21	State Alcohol & License Tax												1,831.4	1,831.4
22	**Total Brewer & Dist.**	**2,514.5**	**1,730.5**	**547.3**	**771.3**	**190.1**	**136.6**	**60.1**	**3,394.3**	**1,889.6**	**8,600.7**	**2,633.5**	**9,126.3**	**20,360.5**
23	* excluding Fed. & State alcohol taxes													

TREATING PEOPLE LIKE THIS IS A DISGRACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, today we learned the joyous news our colleague, the gentleman from Pennsylvania [Mr. MCDADE], was found not guilty on all charges against him. JOE was one of the most admired and distinguished Members of this body. He is much beloved by his constituents of his Pennsylvania district. JOE, however, was targeted by a prosecutor looking for a trophy. He wanted to put a trophy of JOE on the wall, he wanted to convict a Congressman, a prosecutor intent on bringing JOE down in order to further his own career.

Well, as time went on it was clear that JOE was innocent. The prosecutor, however, had to double his efforts or admit that he had wasted the taxpayers' time on a questionable, very questionable prosecution.

Today, after over 4 years of brutal attack by an abusive prosecutor, JOE MCDADE was found innocent of all the charges against him. A jury of his peers heard the evidence and decided that they were groundless. Unfortunately JOE's defense cost him his entire life savings. He has been put through a travail that none of us would like to emulate.

Well, we rejoice with JOE, but we also add the fact that he was found innocent, and we stand committed to try to make up at least for the financial loss that he suffered. He has suffered a catastrophe at the hands of an out-of-control prosecutor, a prosecutor gone berserk in order to bring down a public official in order to make himself look good.

And what has the cost been to this man personally, a loyal hardworking public servant who committed his entire life to his country and to his constituents? We will welcome JOE back here joyously after this great victory.

But today something else happened. Today President Clinton announced that he is reneging on his agreement, as stated by his White House spokesman, to sign a bill which would pay for the legal expenses of Billy Dale. This is a bill that passed this House overwhelmingly, to pay the legal expenses of Billy Dale.

Now you may remember who Billy Dale is. Billy Dale was the civil service employee at the White House who ran the travel office. He was fired by the White House early on in order to give basically a relative of the President a chance to take over that office and to give a Hollywood chum of the President a chance at the contracts to give travel services to the media who cover the White House.

Billy Dale was fired unjustly, and when there was a large protest about this, the President decided, and whoever it was, that they would not just be satisfied with firing Billy Dale, but they would have to file charges against this man, this guy, this ordinary working man who spent all of his life trying to do his duty, had been in the military.

He was there in a bipartisan job in the White House, just a little public servant, somebody, a civil service fellow, and he was fired, and he was then not only fired but prosecuted in order to cover up the wrongdoing and the wrong action that was taken against him.

Well this was something that was again confirmed by the fact that Billy Dale, with all of the prosecutorial power of the Federal Government against him, when it was taken to court it took 2 hours, 2 hours for a jury to find that Billy Dale was innocent of all the charges against him.

Yet, like JOE MCDADE, Billy Dale was not a rich man, and Billy Dale's entire life's savings was destroyed by trying to defend himself against a vindictive President who was trying to cover up his own wrongdoing.

Now, after the President agreed through his spokesman at the White House that he would sign a piece of legislation, legislation that passed overwhelmingly in this body, to make up at least to some small degree the injustice that was given to this man, Billy Dale, who ran the travel office there at the White House, the President now is reneging on that agreement. The President said, "Oh, not until all the legal fees of all the people who were being investigated by this Congress are paid are we going to pay for Billy Dale."

Well let me remind the President, and I guess I cannot speak directly to the President, but let me remind all of you that the President of the United States is talking about people who were not found innocent of crimes, or are being investigated, versus Billy Dale who was found totally innocent of all the charges against him. This is an absolute travesty.

President Clinton must stand by his word. Through his spokesman, he committed to sign the bill that would pay Billy Dale's legal expenses and make up for the wrongdoing that his administration was involved in in basically relieving Mr. Dale of his job in the first place and then bringing criminal wrongdoing against Mr. Dale to cover up that tactic against this civil servant.

Mr. Clinton has gone too far, he has to keep his agreement with us, and he must keep faith with the values of the American people instead of treating some civil servant like this. It is a disgrace.

WE NEED TO GO FURTHER WITH HEALTH CARE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wanted to come to the floor this evening to clarify and conclude a debate that we had earlier today on the floor of the House. First of all, let me acknowledge that I am grateful in a bipartisan manner that this House and the Senate has passed the Kennedy-Kassebaum legislation.

□ 2300

There are many aspects of the legislation that we could cite as being positive, and some that we need to have further refinement. But there was a dialog on the floor of the House today that I engaged in with my friend, the gentleman from Iowa, as to my concern of the heavy burdens falling upon our physicians throughout this Nation.

There is no doubt that I am gratified to have been able to support and cosponsor the legislation that was just passed, that allows Americans to have portability with their health insurance, and not to be penalized for preexisting disease. We need to go further. We need to ensure that all Americans have access to good health care.

At the same time, I am familiar and interact with many aspects of the medical profession: those physicians who practice in rural America and urban America. In fact, I have served on an indigent health task force for the State of Texas, where we were fighting against the closing of rural hospitals throughout that State. One of the problems, of course, was the inability of many of the physicians to be able to practice in those communities because of limited access to insurance that would cover those constituents, and, as well, limited access to viable hospitals.

It is those physicians who practice in inner city America and rural America who have private practices who I am concerned will be heavily burdened with the fraudulent provisions that are so severe in this legislation. We want to get rid of the fraud and abuse and certainly the bad practitioners, but overall, America's physicians take the Hippocratic oath, and all they want to do is to serve their patients.

If you have an office situation that is small and not necessarily computer-processed, and you have an inadvertent staff person who repeats the billing to Medicare or some other service, then you are charged with knowingly and intentionally and recklessly providing this documentation, and are subject to the fraud provisions.

I really think that we have an opportunity, as this bill is signed, to revisit this question and to study this question, to ensure that those physicians who serve our most needy of Americans

in rural and urban centers around the Nation are allowed to do their practice, the practice of medicine, and that we do not hinder them and tie their hands so they are not able to serve those constituents, and that they are not subjected to some of the harshest fraudulent provisions that are in this particular legislation.

Mr. Speaker, I would encourage my colleagues, Democrats and Republicans alike, that we consider whether or not, as we watch this legislation progress, that it is not too severe to inhibit those who might serve those most needy constituents.

ANTITERRORISM LEGISLATION AND THE STATUS OF AMERICAN MILITIAS

Mr. Speaker, let me point out two other matters that we have had the opportunity to discuss this week. One, there has been a conference committee, bipartisan, in which the President has instructed the leaders of Congress to respond to the concerns of the American public and to pass antiterrorism legislation, which would include wiretapping, increased services or increased resources to our law enforcement, and, as well, would provide for taggant, what we would call the kind of tracking devices, to determine who might have been behind any kind of explosive incident or tradegy.

It seems as if, however, we have not been able to come to a meeting of the minds, and that Members of this House, Republicans, have refused to listen to the President and to the American public asking for greater national security. I hope we can find an opportunity to come together on this issue, and not allow partisan politics to divide us on this question of terrorism.

I hope also this House will have hearings on terrorism, domestic and international. I would also like my colleagues to join me in the support of House Concurrent Resolution 206, which I will offer, that will suggest to this Congress that we join together to determine the state of militia in this Nation, to determine whether there are those who are organized in a violent manner to overthrow this Nation. If they are in the form of militia, then we should find them, identify them, and prosecute them to the fullest of the law, and certainly the Department of Justice should be involved in this prosecution. We must not tolerate terrorism, domestically or internationally.

I would encourage my colleagues in the House to get on with the business of an antiterrorism bill, and to join me in this militia legislation that will bring individuals to justice who would overthrow this Government.

TRIBUTE TO TROOPERS WHO SAVED LIVES IN ATLANTA'S CENTENNIAL PARK BOMBING

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I would certainly be remiss in my duty if I did not brag on and recognize four of our First District of Georgia heroes that led the safety efforts in last Saturday's early morning Centennial Park explosion in the Olympics in Atlanta. The gentlemen that I want to recognize are Mr. Ted Riner, Mr. Tommy Sisson, and Mr. David Averitt. These are all State troopers who lived in Statesboro, GA, who were on detail at the Centennial Park in Atlanta.

I also wanted to recognize Mr. Tom Davis, who married a Statesboro girl, who is the daughter of my friends, Bobby and Floyd Naxton, in Statesboro. Tom was the GVI agent in charge of Centennial Park. If you can visualize the scene a little bit, in fact last Monday, Libby, my wife and I were at an Olympic medal ceremony in Savannah, and it was very similar to the scene that had happened on Saturday, just a few days before. The Spinners were playing, a great popular group, everybody was dancing, everybody was having a good time, folks were celebrating the Olympics from all over America, from all over the world, and so forth.

I was thinking, this is what the scene was like Saturday morning early, at 1:20 a.m., when the bomb exploded. As we know, Mr. Davis was among the very first to know of the bomb, and immediately he began evacuating the area. Mr. Riner, Mr. Sisson, and Mr. Averitt all were key players.

There were only 9 people evacuating about 150 partiers. Some of these partiers had been drinking, some of them were tired, some of them did not want to be interrupted in their partying, and yet these brave men very calmly but very firmly led these 150 people, this group, out of the way of danger, and when the bomb went off, only two people were fatally wounded, which, of course, were two too many. However, you can only think of how many people would have died if it had not been for the efforts of these four men and the five others who were with them.

The interesting part, being true Americans, true officers who will do their duty and act without question when the time of emergency comes, they laughed later when they were told that they were heroes. They said, why are we heroes? We were just doing our jobs.

Then they talked about being wounded, as all three of them were. Mr. Davis was not wounded, but the three of them were, the three others were. They said that even as they were being told to lie still and being taken to the hospital, their first concern was, how many people were injured, and what about each other? They all, Riner, Sisson, and Averitt, had known each other. They know Pam, David's wife, and they were all very fond, and that was their first concern each one of them had, for the other person and for the public in general.

Mr. Speaker, as long as America has men like this, people like this from all over the country, heroes that come from everyday walks of life, our country will continue to be a great Nation. I am proud to say that I know some of these guys vicariously. I certainly know of them very well and know their families, and I am very, very proud of them.

Just think what it would have been like, how much more tragic the explosion in Centennial Park would have been, if it had not been for their fast and immediate action. So I salute them, and I know all 435 Members of Congress join me in this salutation: Job well done, gentlemen.

TRIBUTE TO STAFF OF THE LATE HONORABLE HAMILTON FISH, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. KELLY] is recognized for 5 minutes.

Mrs. KELLY. Mr. Speaker, since he was first elected to the 91st Congress in 1968 until his retirement in 1994, Hamilton Fish, Jr., has relied heavily on the support of his staff. During his 26-year tenure there were more than 70 staffers who served him loyally. The following is a list of those who served at least 3 years or more, as recalled to my memory.

The first of these is John Barry, from the Catskills in New York. He met Ham Fish in 1965 and became a trusted friend, adviser, campaign manager, and confidante, launched and ran a successful campaign, getting Ham elected to Congress the first time in 1968, and from that point on continued as his campaign manager and adviser and served as his administrative assistant until he retired, from 1968 until 1982.

John currently resides in West Palm Beach, FL. It was my joy and pleasure to serve Ham and work with John Barry. John was a remarkable man whom Ham was very lucky to have on staff.

John Nacarrato is another one. John Nacarrato was elected eventually to the Ulster County legislature, but he served as district director for Hamilton Fish until he retired in 1992. John is my friend from the early Ham Fish days, and he owns and runs PJ's Restaurant in Kingston, NY. I go up there to see him often.

Helen Fuimarello, this is another woman who met Ham Fish and volunteered on his campaign, then joined him. She came from Hamilton Fish's staff onto my staff and helped me set up my office in Dutchess County. She retired from Federal service in 1996,

and currently works part-time for our State senator, Stephen Saland. Helen and I remain good friends and I rely on her excellent advice always.

I want to mention Aya Ely. Aya Ely was Ham's personal secretary from 1968 until 1987. She was an absolutely remarkable woman.

Then there was Marion Clow. Marion kept us all in line. She was on Ham's staff from 1969 until she retired about 1983.

Then there was Alan Coffey, Jr. Alan started in 1969. Alan is still on Capitol Hill. He served on the House Committee on the Judiciary as minority counsel, but he is now majority general counsel and staff director of the Committee on the Judiciary. Alan is as sharp as ever, but he started with Hamilton Fish.

Gerry Schindler started as a volunteer on Ham's campaign. Eventually Gerry moved to Salisbury, MD, and now works in the office of Congressman WAYNE GILCHREST. She is a lovely, kind woman, and another friend of mine.

Then there is Shirley Cavanaugh, Dorothy Pedersen, Clementine Anthony, Janice Traber, Shelva Hoffman, Tom Schatz, and Phyllis Coleman, another remarkable woman. She started in 1979 in Ham's Poughkeepsie office as a caseworker and staff assistant. Later she moved to the Washington office to work as a legislative correspondent and chief caseworkers. She served Ham for 15½ years, and then she moved with me into my office. She is the finest human being I have found here on Capitol Hill. She is a wonderful human being, and has helped countless people in my district. My hat is off to Phyllis Coleman for her many, many years of service. I am proud to have her in my office.

Hope Wittenberg worked for Ham. Nick Hayes came in, replacing John Barry, from 1982 to 1994. He was Ham's administrative assistant. Nick, too, remains a good friend.

Nora Lucey Mail is still here on Capitol Hill. Mariel Friedman, David Gilroy, and then there is Pari Forood Novik. Pari Novik and her husband Dick are good friends. She served 6 years on Ham's staff, and they live in Dutchess County, where they help the Dutchess community in hundreds of ways. Pari basically now has opened and runs a radio station.

Molly Clark, Morey Markowitz, Grace Washbourne. Grace always made sure Ham got where he needed to go. She was a scheduler and a wonderful help to Ham.

Debbie Reilly, Renee Longacre, Mike Hanretta, Heather Whyte, Nancy Eaton, another caseworker who moved from Ham's office to help me.

Linda Jo Edwards, Melissa Bottini, Claire Benson, and many more. These are the people who made the office of Hamilton Fish what it was and helped Ham be the man that he was, and helped him continue to keep his image well-honed. I believe it fitting that we also offer them a tribute, as we have Ham.

OPPOSITION TO DEFENSE AUTHORIZATION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. TALENT] is recognized for 5 minutes.

Mr. TALENT. Mr. Speaker, I rise to explain my opposition to the conference report on the defense authorization bill which the House passed earlier this evening.

Mr. Speaker, shortly after I was elected to the Congress in 1992, several constituents first raised with me the POW-MIA issue. It did not take a great deal of research before I concluded, to my shame, that our Government had left hundreds of POW's behind in Vietnam at the end of that war. Since I entered the Congress I have participated in hearings which have only reinforced my original conclusion in that matter. In fact, the Government's denials in these hearings have taken on a feeble and pro forma quality, as if they know and we know that what they must say for the record is not true.

Like many other Members, I continue trying to expose this truth publicly, but I am not so naive as to believe, with all the foreign policy, economic, and personal interests at stake that any administration is likely to admit that several hundred men were left behind following Operation Homecoming in 1973, and that a 20-year bipartisan coverup has since occurred.

□ 2315

But I did think it possible to make better provision for servicemen in the future. I was very pleased when, in last year's authorization bill, Congress passed the Missing Service Personnel Act. This act established a separate agency to track POW-MIA's, granting extensive powers to that agency and legal rights to the families of missing servicemen. The new legislation made it much less likely that soldiers could be left behind in subsequent wars. It tacitly recognized and therefore partially redeemed the sins of the past. Nothing could give better meaning to the past sacrifices of our POW's than real action to ensure that others are never abandoned as they were.

However, during debate on this year's bill, and at the urging of the Pentagon, the Senate adopted an amendment gutting the legislation passed only 6 months ago, loosening standards for investigation and certification.

As has so often been the case with the POW-MIA issue, it is impossible to fathom the reason for the Senate's and presumably the Pentagon's position. Certainly the families and the veterans organizations will be mystified and heartbroken. As I said before, the new law has only been in place for 6 months. What have we learned in that short period of time that justifies so significant a change? Why do we now believe that it is acceptable for a commander to wait 10 days before reporting that one of this men is missing in action? Why is it less important now than it was 6 month ago to require that forensic standards be satisfied before identifying a body based on one tooth or one bone? And what has the Department of Defense done since the beginning of the year that should convince us to err on the side of giving it more discretion in making these determinations given its dismal record over the last 20 years?

Mr. Speaker, I cannot blame any Member who decided to vote for this conference report because of the good things in it, notwithstanding what it does to the cause of POW's and MIA's. Everyone has to make this own decisions in matters of that kind. I freely admit that my vote was based more on conscience than on policy. I simply cannot join in once more sacrificing the interests of our POW's in the name of some greater good. Objectively I know that what the Congress did tonight will have little effect on those left behind in Vietnam. I am sure they have long since given up hope of deliverance and in fact most are by now buried in fields or shallow graves or stored in warehouses in case the Vietnamese need their bodies for some purpose. What I find unendurable is the sense that we have today abandoned them again, heaping yet another betrayal on the bones of these honorable men who made the mistake of trusting us.

HEALTH INSURANCE REFORM LEGISLATION

The SPEAKER pro tempore (Mr. FORBES). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for one-half of the remaining time as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I do not plan to use all of the time. But I did want to take to the floor tonight to talk about the health insurance reform legislation that was passed today on a bipartisan basis and certainly start off by saying that I am pleased that the bill did pass, that we have agreement between the House and the Senate, and that this legislation will go to the President and that the President has indicated, obviously, that he will sign it, because at least we will be able to say that this year there has been some progress, albeit small progress, but some progress toward expanding health insurance opportunities for Americans.

I have been very concerned over the last 2 years that we would not get this legislation passed because of inaction,

which I put the blame on the Republican leadership here in the House. One of the things that Democrats, that we as Democrats did at the beginning of this session of Congress, was to establish a health care task force whose goal primarily was to try to expand health insurance opportunities for the many Americans who either do not have health insurance or who have problems obtaining health insurance even if they can afford to pay for it. I think this is one of the major issues that we must address not only in this Congress, but also in future Congresses.

The bottom line is that more and more people every day in this country do not have health insurance. The estimates now are that it may be as many as 40 million Americans. I think it is unconscionable that that number continues to grow, and I think that government, and the Federal Government in particular, must do whatever it can to try to increase opportunities for health insurance and ultimately to bring down the number of Americans who do not have health insurance, who are not covered by health insurance.

Let me just point out today why I think that the bill that was approved, which I call the Kennedy-Kassebaum bill, for the two Senators who initially sponsored it in this session of Congress. What it does essentially, it does a lot of things but I would just like to highlight four things that I think are most important.

One is, and most importantly, it deals with the whole issue of what we call portability, where an individual or a family, the head of the household I should say, loses their job or has to change jobs. Increasingly, that becomes a difficult problem for that individual or that head of the household or the family as a whole to find health insurance when they change a job or when they lose their job. In addition, we have a lot of Americans who in that circumstance or in other circumstances cannot find health insurance because they have a preexisting medical condition. The bill that we passed today addresses those problems in significant ways.

First, it provide health insurance portability for workers and protection against exclusion from group insurance coverage in a new job because of preexisting condition. A group health plan cannot exclude you for more than a year from the coverage it gives others because of a preexisting condition. If you had a year or more of coverage and switched jobs and then have less than a 63-day, 2-month break in service between the jobs, the new plan cannot exclude you because of preexisting conditions. Of course, that sounds a little legalese, but it is a significant breakthrough for people who have been denied health insurance because of preexisting conditions.

The bill also guarantees renewability of insurance regardless of health record or the size of the group. It also provided opportunity to go from group to individual insurance. If you have exhausted your group insurance possibilities and have been covered under a group plan for 1 year for 1 year or more, you have the right to buy a type of individual policy without preexisting condition exclusions.

Finally, there is also a gradual increase in tax deduction for the self-employed to 80 percent by 2006.

There are other things in the bill, but those are the ones I want to highlight. From the beginning of this debate, which is really almost 2 years now in this Congress, I have said that if we can, if we can at least improve the situation in terms of portability job to job or making sure that people are able to get insurance for preexisting conditions, if that is all we do in this year and with this legislation, we have accomplished a lot. And all the other things that were added and all the other special interest provisions which I am going to go into a little bit now, I think, were basically not important, should have been excluded from the beginning, and unfortunately were not, but today we finally came to a conclusion and we have a relatively clean bill and deals with those preexisting conditions and portability provisions of the original Kennedy-Kassebaum bill.

Let me talk a little bit about what I consider the politics of this, because I have to say that I believe that as Democrats, as a Democrat and as a party, we have really taken the leadership to try to get this legislation passed this year in this Congress. More than anyone else, the President has taken a leadership role. He announced in his State of the Union address this year that if he was sent this bill with the preexisting condition provisions and with the portability provisions as a clean bill that he would sign it. Basically, President Clinton deserves most of the credit for the fact that this legislation finally passed tonight, and he is going to sign it.

However, what I hear from my Republican colleagues on the other side and what I am sure I am going to be hearing for the next month or so is this effort, I guess part of a massive election-year campaign, to try to convince the American voters that the Republican Party, or the Republican leadership, is responsible for improving access to health insurance through the legislation that we passed today.

The truth is that it has been the Democrats who have led the charge to expand access to health care for all Americans. Over the last 40 years, Democrats have promoted and succeeded in enacting legislation to improve the health care system, most importantly through the establishment of Medicare and Medicaid health programs in the 1960's and Democratic have consistently fought for the health reform provisions that were in the bill that we passed today. The Democratic lead on these reforms started in this Congress when Senator KENNEDY first introduced his bill in July of last year. The Democratic advocacy of these health insurance reforms dates back even further.

I have to say, because I have been to the well, I have been here on the floor many times to point out how the Republican leadership refused to take any action on the legislation until President Clinton finally put pressure on them by calling for passage of the bill in his State of the Union address last January, gradually the Republican leadership started moving on the Kennedy bill, by very slowly, In fact, the House and the Senate did not even vote on the bill until the end of March.

I think that what essentially happened here is that the Republican leadership and Speaker GINGRICH realized more and more as the year went on that their Contract With America provisions, that their extreme agenda was not working, and they started to reach out with this bill as a vehicle to show that they are moderate and they were actually trying to do something for the average American.

Even though that was true and even though the political pressure was on them to try to do that and hopefully to move this bill, we still had a holdup because the leadership, Speaker GINGRICH, the Republican leadership, insisted on including the medical savings accounts as a provision in this legislation.

I have stated over and over again that the medical savings accounts were the poison pill, essentially the delay, and the fact that this bill did not come to the floor in this form until today was largely due to the Speaker's insistence and the Republican leadership's insistence that medical savings accounts be included in the legislation. I have pointed out and I will point out again, I believe the major reason for that push was because they received so much money, the Republican Party did, from the Golden Rule Insurance Co., which is the main company that sells these kind of policies.

Let me just say briefly why, and I have said it before, but I want to say it again briefly, why medical saving accounts are not a positive provision in this legislation.

Fortunately, again due to Senator KENNEDY's insistence primarily and other Democrats, the medical savings accounts provision in this bill that came to the floor today were whittled down, so it is now only a pilot program that does not impact a lot of people. And so I am hopeful that whatever negative aspects exist for MSA's have been whittled down and will not have a terribly negative impact on this bill. But it is still in the bill, and I do think that we should be worried about the impact of MSA's.

What MSA's do basically is to break the insurance pool. You have wealthy people, you have poor people in the insurance pool. You have healthy people, you have unhealthy people in the insurance pool. The idea of the insurance pool is you put all these people together and you basically have a balance, and you do not charge a great deal because everybody pays an average premium. What MSA's do basically is to separate the health insurance risk pool and actually result in premium increases for many Americans because the people that opt out and go for the umbrella or the catastrophic policy, if you will, that exists with the MSA's are mainly healthy and wealthy people, people that can afford to pay out of pocket if necessary, people who do not think that they are going to have to have that many occasions when they visit a doctor or go to a hospital. And so what happens is the healthy and wealthy people opt for the medical savings accounts and the insurance pool is left with poorer people and people who are largely unhealthy, and premium rates go up.

The reason that I think that is such a terrible thing is because the whole purpose of health insurance reform is to try to expand opportunities for health insurance coverage for people that do not have it. If premium rates go up, then fewer people can afford health insurance. Fewer people are able to afford health insurance and more and more people go without health insurance.

Why did they try to incorporate these accounts, these MSA's in the bill? Because the Republican leadership was getting a lot of special interest money from the Golden Rule Insurance Co., which was the main company that was trying to sell these policies.

The Republican leadership went so far that they even tried to put MSA's in their medical proposal even though the CBO, the Congressional Budget Office, a nonpartisan organization, scored the MSA's as draining Medicare by over $3 billion. So we had this MSA problem not only with this bill, but also with Medicare.

At one point, we had the Republican leadership in the Senate saying that they would not even allow the minimum wage increase legislation to be considered until they had their way with the health insurance reform bill that included the MSA's. Fortunately, they dropped that.

Tomorow we are going to be considering the minimum wage bill. Once again, it is because of Democratic persistence in saying, "No, we're not going to link these two, we're not going to include the provisions on the medical savings accounts the way you want it. We want to pass a clean health insurance reform bill to address portability and preexisting conditions, and we want to pass a clean minimum wage bill."

□ 2330

I have to say, once again, that I believe very strongly that the reason that this bill came to the floor today is because of the insistence of the Democrats that it come before us in its clean form and in the way that would actually be helpful to the average American.

Now, let me stress, and I guess I am basically going to conclude with this, that while this legislation that is before us today and that we voted on is not the end-all in health insurance reform, it is an important first step down the road to helping Americans maintain their health care security. However, I think a lot more work needs to be done.

Some of the Democrats who spoke on the floor today stressed the fact that this is only a small step and that we need to do a lot more in order to achieve that goal of bringing all Americans under some kind of health insurance coverage. That is certainly true. This is only a beginning, an important beginning, but nonetheless a beginning. Only a beginning.

What are we proposing then as Democrats? Well, the next step, the next incremental step, I believe, and probably the most important one, is a proposal that the Democrats have put forward as part of their family first agenda to create kids only health insurance policies, ensuring that every American child has health insurance.

We have obviously dealt in an important way now with the portability and the preexisting condition problems, but one of the biggest gaping holes in the lack of health insurance, so to speak, is the fact that so many children now do not have health insurance. So as part of our agenda we want to make sure that there are ways in which people who can afford to buy health insurance, but maybe have problems because they have difficulty buying it for their children or difficulty buying it for their whole family, at least have the option that they can buy it for their children. If their children are covered, obviously that is important to them and it gives them some sense of security about their ability to provide and take care of their children.

At the same time, Democrats remain committed to protecting Medicare and Medicaid from Republican raids on those programs primarily to pay for tax breaks for the wealthy. Over the last year and a half, Republicans have made several attempts at cutting Medicare and Medicaid, and I have again talked about those a great deal on the House floor.

If we make these severe cuts in Medicare and Medicaid that had been proposed by the Republican leadership, the net effect would increase the number of uninsured and underinsured. That is the opposite of what the goals should be of this Congress. Not only the Democratic goal, but the bipartisan goal of this Congress and of this Federal Government is to get more people health insurance. We are not going to accomplish that if we cut Medicare and Medicaid. Ultimately, it is going to mean that fewer people have health insurance and the quality of service and the level of service goes down.

Mr. Speaker, I just want to conclude, because I know there is not much time left and I do not want to use all the time, but I just feel very strongly that what we have witnessed in this Congress, when we talk about Medicare, when we talk about Medicaid, or even when we talk about this health care reform bill which we finally passed today, is that the Republican policy has essentially been the opposite of what the Democratic principles are about.

Democrats have said that they want to increase the number of people that have health insurance. What we have been seeing from the Republican leadership basically is the opposite: Cut health care programs, repeal health care programs and, finally, be dragged sort of fighting and kicking to pass a health care reform bill that addresses one problem, or at least one small problem affecting millions of Americans.

I suppose, ending on an optimistic note, I have to say that maybe they have been dragged kicking to the point where they had to bring up the bill today, but at least the bill was brought up, and there are millions of Americans who will be positively impacted by this health insurance reform legislation that was passed today on a bipartisan basis. If it took all the kicking and screaming and complaining by Democrats to get us to that point, that is fine. We have accomplished something and it is certainly a victory for all Americans.

Mr. Speaker, I yield back the balance of my time.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 35 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0049

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 12 o'clock and 49 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A MOTION TO SUSPEND THE RULES

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–744) on the resolution (H. Res. 508) providing for consideration of a certain motion to suspend the rules, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 3845, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1997

Mr. BONILLA submitted the following conference report and statement on the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–740)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3845) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 5, 6, and 7.

That the House recede from its disagreement to the amendments of the Senate numbered 9, 12, and 13, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert the following: *That funds expended for the Office of the Mayor are not to exceed $2,109,000, of which $632,000 is from intra-District funds: Provided further, That $327,000 of the funds for the Office of the Mayor shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services: Provided further,*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment, and on page 3, after line 4 of the House engrossed bill, H.R. 3845, insert the following:

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

For a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with a private entity (or entities) to carry out a program to inspect, flush, and repair the drinking water distribution system of the District of Columbia, $1,000,000.

, and

on page 4, line 13 of the House engrossed bill, H.R. 3845, strike all after "funds)" down through and including "Columbia" on page 5, line 11.

And the Senate agree to the same.

Amendment number 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

Retain the matter proposed in said amendment, and

on page 31, line 5 of the House engrossed bill, H.R. 3845, strike ", prior to October 1, 1996,".

And the Senate agree to the same.

Amendment number 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

Delete the matter proposed and restore the matter stricken amended as follows:

In lieu of the first sum named in the matter restored insert: *$74,000,000*; and the Senate agree to the same.

Amendment number 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

Delete the matter proposed and restore the matter stricken amended as follows:

In lieu of subsection (a) in the matter restored insert:

(a) The heads of all personnel of the offices, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of independent agencies but not including personnel of the legislative and judicial branches of the District government), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer:

The Office of the Treasurer.

The Controller of the District of Columbia.

The Office of the Budget.

The Office of Financial Information Services.

The Department of Finance and Revenue.

The District of Columbia Financial Responsibility and Management Assistance Authority established pursuant to Public Law 104–8, approved April 17, 1995, may remove such individuals from office for cause, after consultation with the Mayor and the Chief Financial Officer.

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 149. ENERGY AND WATER SAVINGS AT DISTRICT OF COLUMBIA FACILITIES.

(a) REDUCTION IN FACILITY ENERGY COSTS AND WATER CONSUMPTION.—

IN GENERAL.—The Director of the District of Columbia Office of Energy shall, subject to the contract approval provisions of Public Law 104–8—

(A) develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy and water savings;

(B) enter into innovative financing and contractual mechanisms including, but not limited to utility demand-side management programs and energy savings performance contracts and water conservation performance contracts: Provided, That the terms of such contracts do not exceed twenty-five years; and

(C) permit and encourage each department or agency and other instrumentality of the District of Columbia to participate in programs conducted by any gas, electric or water utility of the management of electricity or gas demand or for energy or water conservation.

REDUCTION IN MINIMUM NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF AMERICAN UNIVERSITY

SEC. 150. The first section of the Act entitled "an Act to incorporate the American University", approved February 24, 1893 (27 Stat. 476), is amended by striking "forty" and inserting "twenty-five".

WAIVER OF CONGRESSIONAL REVIEW FOR CERTAIN COUNCIL ACTS

SEC. 151. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the following District of Columbia acts shall take effect on the date of the enactment of this act:

(1) The District of Columbia Real Property Tax Lien Assignment or Sale and Transfer Amendment Act of 1996 (D.C. Act 11–353).

(2) The Telecommunications Competition Act of 1996 (D.C. Act 11–300).

(3) The Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11–309).

And the Senate agree to the same.

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
R.P. FRELINGHUYSEN,
MARK W. NEUMANN,
MIKE PARKER,
BOB LIVINGSTON,
JULIAN C. DIXON,
JOSÉ E. SERRANO,
MARCY KAPTUR,
DAVID R. OBEY,
Managers on the Part of the House.

JAMES M. JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
HERB KOHL
(Except amendments No. 6 and No. 7)
DANIEL K. INOUYE,
(Except amendments No. 6 and No. 7),
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3845) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1997, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on the District of Columbia Appropriations Act, 1997, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 104–689 and Senate Report 104–328 should be complied with unless specifically addressed in the accompanying bill and statement of the managers to the contrary.

A summary chart appears after the explanation for amendment 5 showing the Federal appropriations by account and the allocation of District funds by agency or office under each appropriation title showing the fiscal year 1996 appropriation, the control board distribution for fiscal year 1996, and the fiscal year 1997 request, House and Senate recommendations and conference allowance.

DEFICIT SPENDING AND LONG-TERM DEFICIT BORROWING

The conferees are concerned with the insidious aspects of long-term borrowing to fund

deficit spending. The conferees note that the actual deficit for fiscal year 1995 was only $25,000,000 when the accounting adjustments of $29,000,000 are factored out.

For fiscal year 1996, the deficit was estimated at $20,000,000 at the time the President signed the appropriations Act; however, in testimony provided by the Chief Financial Officer to the House Committee on Appropriations on May 15, 1996, the deficit was projected at $116,000,000, a 580 percent increase. While the deficit was relatively small in fiscal year 1995, it is projected to increase significantly in fiscal year 1996.

The District is proposing to borrow $500,000,000 long term to fund the accumulated deficit caused by overspending and future projected deficits. The cost of this proposal is $435,000,000 in interest costs that will have to be paid from current operating revenues in addition to the $500,000,000 in principal that will have to be repaid. Said another way, instead of the $435,000,000 being used to benefit District taxpayers in the form of teachers and counselors for education programs, police activities and fire services as well as programs to meet various social needs, those hundreds of millions of dollars will be used for interest payments to bondholders thus depriving the citizens of the District the use of scarce revenues for basic city services. The insidious nature of deficit borrowing is that it allows higher spending that satisfies immediate needs while at the same time entrapping current and future taxpayers into making interest payments on funds borrowed to pay for goods and services that were provided in the past. This $435,000,000 is in addition to the $150,000,000 in interest payments being made on the $336,000,000 in deficit borrowings made in fiscal year 1991.

Long-term borrowings for capital projects, on the other hand, are entirely appropriate because the projects on which those funds are spent last for the period during which those borrowings are repaid so that the taxpayers at the time the payments are made are able to benefit from those projects. This is not the case with long-term borrowings for deficit spending. Every effort should be made by the Mayor, the Council and the control board to avoid deficit spending and thus alleviate the need to obligate future taxpayers to pay for the overspending of those who preceded them.

The accumulated deficit at the end of fiscal year 1995 totaled $378,000,000 which was computed by subtracting total assets from total liabilities in the General Fund and resulted in liabilities exceeding assets available to satisfy those liabilities. However, an analysis of the liabilities reveals that approximately $312,000,000 will either not require a use of cash or are long term in nature. For example, $142,000,000 is deferred revenue, which is a record of cash already received that will be recorded as revenue earned in fiscal year 1996. The cash is already in the General Fund's cash account. Another $170,000,000 is recorded as accrued liabilities which are estimates of payments that may be made sometime in the distant future, such as payments resulting from claims and judgments, disputes from grant claims, and possible Medicaid payments subject to audits of reimbursement claims. Thus, only about $66,000,000 of the remaining excess liabilities over assets of the accumulated deficit may need to be paid in fiscal year 1996. Given this analysis it appears that a long-term borrowing of $500,000,000 should be carefully analyzed and avoided by pursuing other options. A very high priority should be given to living within the current revenues.

An analysis of the District's cash account to determine the pattern of overspending since fiscal year 1991 when $336,000,000 was borrowed to fund the accumulated deficit reveals that the District over spent an average of $71,000,000 per year. It should be noted that this amount reflects increases and decreases in both the accounts receivable and the accounts payable so that a deferral of the use of cash would not artificially inflate the balance in the cash account. This amount is approximately the amount of the projected fiscal year 1997 deficit of $74,000,000 recommended in this conference agreement. The Mayor and the Control Board Chairman recently stated that there were several ways of reducing the projected fiscal year 1997 deficit. These recommendations as well as those made by the many financial advisers who have testified and published reports on the various ways the city can reduce the costs of operating the Nation's Capital should be pursued vigorously.

Testimony at recent and past hearings as well as reports from financial advisors to the city and meetings with District and control board officials have documented the concerns and inherent problems in borrowing long-term to finance operating deficits. The officials cited several ways to reduce the projected deficit for fiscal year 1997; the advisors have testified that future requests by the District to fund an operating deficit should not be approved; and testimony indicates that a change in one item, Medicaid, among several other items, would eliminate the city's deficit and result in a surplus. Efforts should be pursued immediately on these items that will save District taxpayers and the Federal Government hundreds of millions of dollars instead of spending scarce local revenues on interest costs to bondholders.

Long-term borrowing for deficit spending does not resolve the problems caused by overspending—rather it increases the accumulated deficit and postpones the tough decisions that have to be made. Deficit financing carries a very high cost that has serious negative consequences to the financial health and quality of life of the community.

QUALITY OF DISTRICT'S DRINKING WATER

The conferees are deeply concerned about recent violations of Federal drinking water quality standards and the continuing problems that beset the drinking water supply and distribution system for the District of Columbia. The Federal Environmental Protection Agency (EPA) recently completed a preliminary investigation of the water quality problems attributed to the District's water distribution system and concluded that there is an urgent and immediate need for the District to implement steps to assure the integrity of drinking water quality in the District. Among the most important of these recommended actions is that the District hire a private contractor or contractors to flush the drinking water distribution system completely, and to inspect and repair water valves.

The conferees agree that there is a strong Federal interest in assuring that those who visit, live, and work in the Nation's Capital have safe water to drink. Accordingly, the conference agreement includes $1,000,000 in Federal funds for this purpose under amendment number 2. These funds are provided to the Financial Control Board to contract with a private entity or entities to conduct the inspection, flushing and repair work recommended by the EPA. The conferees direct the control board to consult with the Department of Public Works, the D.C. Water and Sewer Authority and the EPA in implementing this activity. Further, the conferees encourage the control board to move expeditiously to contract for the work in anticipation of the funds provided in the accompanying bill becoming available on October 1, 1996.

YCARE 2000 PRIVATE-PUBLIC PARTNERSHIP

The conferees fully support the YCARE 2000 program sponsored by the YMCA of Metropolitan Washington. The program provides work-readiness, conflict resolution training, tutoring, socialization and other skills to at-risk District youth who are in the age range of 5 to 18 years old. The conferees believe that YCARE 2000 is an example of an efficient and well-managed private-public partnership which can provide social services to improve the lives of the city's young people. The conferees note that the Council of the District of Columbia has formally recognized the achievements of the YCARE 2000 initiative in a July 11, 1995 resolution.

In order to provide and facilitate private-public partnerships such as YCARE 2000 and in order to reach at-risk youth most efficiently, the conferees request that the Mayor, the City Council, and the Board of Education work with organizations like the YMCA to locate such programs on or near school property. In addition, the conferees request that the Mayor consult with representatives of private, not-for-profit community organizations with demonstrated experience and expertise in providing services to children and youth in the District and, to the extent financial constraints permit, make funds available to such groups for such services on the condition that the groups provide equal matching amounts.

FEDERAL FUNDS

FEDERAL CONTRIBUTION FOR REPAIR OF DRINKING WATER SYSTEM

The conference agreement, under amendment number 2, includes a Federal contribution of $1,000,000 to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with private entities to inspect, flush, and repair the drinking water distribution system in the District. A discussion of the quality of the district's drinking water appears earlier in this statement.

DISTRICT FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 1: Limits the fiscal year 1997 budget for the Office of the Mayor to $2,109,000 of which $632,000 is from intra-District funds instead of $1,753,000 of which $632,000 is from intra-District funds as proposed by the House and $2,209,000 of which $632,000 is from intra-District funds as proposed by the Senate and provides that $327,000 of the $2,109,000 shall be transferred to the Department of Administrative Services as reimbursement for occupancy costs, including costs for telephone, electricity and other services.

Amendment No. 2: Deletes a proviso proposed by the House and stricken by the Senate and further deletes a proviso before and a proviso that followed the proviso stricken by the Senate concerning the District of Columbia Housing Finance Agency and inserts a new heading and paragraph appropriating $1,000,000 in Federal funds to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with private entities to carry out a program to inspect, flush, and repair the drinking water distribution system in the District.

The conference action deletes language as requested in the consensus budget that eliminates the requirement for the District of Columbia Housing Finance Agency to repay the District's general fund $10,591,000 appropriated for fiscal years 1980 through 1992 to finance the Agency's operations. According to District officials, retaining the language requires the Agency to carry the debt on its books and creates a negative financial picture thereby making it difficult and more costly for the Agency to access capital markets. The debt was determined by the District's independent auditors to be "uncollectible" and is fully reserved for in the District's Comprehensive Annual Financial Report (CAFR) (see page 34, fiscal year 1995 CAFR). An earlier communication from District officials requested that the language be retained. See amendment number 12 for language "forgiving" the Agency from the repayment requirement.

The conference action also appropriates $1,000,000 for a Federal contribution to the District of Columbia Financial Responsibility and Management Assistance Authority for contracting with private entities to inspect, flush, and repair the city's water distribution system which has fallen into disrepair. A discussion of the quality of the District's drinking water appears earlier in this statement.

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 3: Deletes language proposed by the Senate that would have modified the appropriations title to indicate that this appropriation included a transfer of funds. The transfer of funds in amendment number 4 has not been agreed to by the conferees.

Amendment No. 4: Deletes a proviso proposed by the Senate that would have transferred $651,000 from the Department of Public Works to the District of Columbia Court System for maintenance and repair of elevators/escalators, heating, ventilation, and air conditioning systems, fire alarms and security systems, materials and services for building maintenance and repair, and trash removal.

The conferees are extremely concerned and disappointed that the Department of Public Works has failed to provide maintenance and repair services to the District of Columbia Courts in a professional manner, permitting necessary maintenance and repair contracts to lapse and causing greater expenses and disruptions as a result. While the conference agreement retains this responsibility in the Department of Public Works, the conferees expect this will not happen again.

The conference action reflects a reallocation of building occupancy costs totaling $2,347,000 from the Superior Court's budget to the Court System's budget because the payments are made from that particular budget. This reallocation was requested by District officials.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

Amendment No. 5: Provides an increase of $46,923,000 for construction projects as proposed by the House instead of $75,923,000 as proposed by the Senate. The reduction of $29,000,000 below the amount proposed by the Senate reflects the deletion of duplicate capital outlay authority initially provided in the fiscal year 1996 appropriations act (Public Law 104–234) for Facility Condition Assessment ($1,000,000) and Financial Control System or FMS ($28,000,000). The amount approved in fiscal year 1996 under "Capital Outlay" is available for two years for the initial obligation after which the authority remains available until exhausted. The House and Senate versions of the bill for fiscal year 1997 include an increase of $3,123,000 for the FMS which when added to the $28,000,000 in the fiscal year 1996 act will provide a total of $31,123,000 for FMS work.

SUMMARY TABLE OF CONFERENCE RECOMMENDATIONS BY AGENCY

A summary table showing the Federal appropriations by account and the allocation of District funds by agency or office under each appropriation title for fiscal year 1996, the control board distribution for fiscal year 1996, and the fiscal year 1997 request, House and Senate recommendations and conference allowance follows:

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845)

Appropriation	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
FEDERAL FUNDS						
Federal payment to the District of Columbia	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000	660,000,000
Federal contribution to retirement funds	52,070,000	52,070,000	104,140,000	52,070,000	52,070,000	52,070,000
Reimbursement of inauguration expenses	0	0	5,702,000	5,702,000	5,702,000	5,702,000
Federal contribution for repair of drinking water system	0	0	0	0	0	1,000,000
Total, Federal funds to the District of Columbia	712,070,000	712,070,000	769,842,000	717,772,000	717,772,000	718,772,000
DISTRICT OF COLUMBIA FUNDS						
Governmental Direction and Support:						
Council of the District of Columbia	8,380,000	7,295,000	8,878,000	8,878,000	8,878,000	8,878,000
Office of the District of Columbia Auditor	961,000	952,000	982,000	982,000	982,000	982,000
Advisory Neighborhood Commissions	572,000	572,000	572,000	572,000	572,000	572,000
Office of the Mayor	1,753,000	1,548,000	2,209,000	1,753,000	2,209,000	2,109,000
Office of the Secretary	2,497,000	2,424,000	2,208,000	2,208,000	2,208,000	2,208,000
Office of Inspector General	728,000	3,493,000	7,200,000	7,200,000	7,200,000	7,200,000
Office of Communications	300,000	313,000	350,000	350,000	350,000	350,000
Office of Intergovernmental Relations	1,735,000	1,259,000	1,239,000	1,239,000	1,239,000	1,239,000
Office of City Administrator/Deputy Mayor for Operations	4,776,000	3,975,000	4,637,000	4,637,000	4,637,000	4,637,000
Office of Personnel	11,220,000	10,596,000	10,568,000	10,568,000	10,568,000	10,568,000
Department of Administrative Services	38,288,000	45,331,000	29,819,000	29,819,000	29,819,000	29,819,000
Contract Appeals Board	511,000	528,000	563,000	563,000	563,000	563,000
Office of the Deputy Mayor for Finance	320,000	1,919,000	1,459,000	1,459,000	1,459,000	1,459,000
Office of the Budget	4,010,000	5,392,000	4,251,000	4,251,000	4,251,000	4,251,000
Office of Financial Management	43,009,000	26,310,000	23,764,000	23,764,000	23,764,000	23,764,000
Department of Finance and Revenue	21,183,000	20,828,000	22,357,000	22,357,000	22,357,000	22,357,000
Tax Revision Commission	0	200,000	0	0	0	0
Board of Elections and Ethics	3,015,000	2,807,000	2,777,000	2,777,000	2,777,000	2,777,000
Office of Campaign Finance	773,000	747,000	804,000	804,000	804,000	804,000
Public Employee Relations Board	470,000	467,000	325,000	325,000	325,000	325,000
Office of Employee Appeals	1,413,000	1,126,000	1,113,000	1,113,000	1,113,000	1,113,000
Metropolitan Washington Council of Governments	400,000	400,000	396,000	396,000	396,000	396,000
Office of Grants Management and Development	2,816,000	2,857,000	12,922,000	12,922,000	12,922,000	12,922,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Governmental Direction and Support - continued						
Certificate of Participation	0	0	7,926,000	0	0	0
Human Resources Development	0	0	12,257,000	0	0	0
Real Estate	0	0	(4,488,000)	0	0	0
Management Information Systems	0	0	(6,317,000)	0	0	0
Energy Cost Reduction	0	0	(2,271,000)	0	0	0
Purchasing and Procurement	0	0	(12,960,000)	0	0	0
Unallocated	0	0	0	456,000	0	100,000
Total, Governmental Direction and Support	149,130,000	141,339,000	133,540,000	139,393,000	139,393,000	139,393,000
Lees Intra-District funds	(24,728,000)	(23,981,000)	(23,730,000)	(23,730,000)	(23,730,000)	(23,730,000)
Revised, Governmental Direction and Support	124,402,000	117,358,000	109,810,000	115,663,000	115,663,000	115,663,000
Economic Development and Regulation:						
Business Services and Economic Development	0	0	51,967,000	51,967,000	51,967,000	51,967,000
Assistant City Administrator for Economic Development	3,943,000	3,832,000	0	0	0	0
Office of Banking and Financial Institutions	296,000	231,000	0	0	0	0
Office of Tourism and Promotion	1,000,000	995,000	0	0	0	0
Office of Planning	1,955,000	1,910,000	0	0	0	0
Office of Zoning	541,000	552,000	870,000	870,000	870,000	870,000
Department of Housing and Community Development	15,988,000	15,114,000	0	0	0	0
Department of Public and Assisted Housing	8,420,000	8,344,000	8,330,000	8,330,000	8,330,000	8,330,000
Department of Employment Services	63,925,000	53,613,000	66,012,000	66,012,000	66,012,000	66,012,000
Board of Appeals and Review	131,000	129,000	157,000	157,000	157,000	157,000
Board of Real Property Assessments and Appeals	338,000	321,000	351,000	351,000	351,000	351,000
Department of Consumer and Regulatory Affairs	36,349,000	35,511,000	14,102,000	14,102,000	14,102,000	14,102,000
Public Service Commission	5,600,000	5,547,000	4,570,000	4,570,000	4,570,000	4,570,000
Office of the People's Counsel	2,497,000	2,081,000	2,437,000	2,437,000	2,437,000	2,437,000
Total, Economic Development and Regulation	140,983,000	128,180,000	148,796,000	148,796,000	148,796,000	148,796,000
Less Intra-District funds	(16,330,000)	(16,330,000)	(13,092,000)	(13,092,000)	(13,092,000)	(13,092,000)
Revised, Economic Development and Regulation	124,653,000	111,850,000	135,704,000	135,704,000	135,704,000	135,704,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Public Safety and Justice:						
Metropolitan Police Department	245,717,000	237,624,000	264,637,000	264,637,000	264,637,000	264,637,000
Fire and Emergency Medical Services Department	87,292,000	89,960,000	106,720,000	106,720,000	106,720,000	106,720,000
Police and Fire Retirement System	220,000,000	220,000,000	226,700,000	226,700,000	226,700,000	226,700,000
Judges' Retirement System	4,700,000	4,700,000	5,500,000	5,500,000	5,500,000	5,500,000
Court of Appeals	5,974,000	5,937,000	6,167,000	6,167,000	6,167,000	6,167,000
Superior Court	80,919,000	76,852,000	81,101,000	81,101,000	81,101,000	81,101,000
Court System	34,677,000	33,331,000	33,944,000	33,944,000	33,944,000	33,944,000
Office of the Corporation Counsel	16,954,000	16,777,000	17,334,000	17,334,000	17,334,000	17,334,000
Settlements and Judgments	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000	14,800,000
Public Defender Service	7,702,000	7,702,000	7,797,000	7,797,000	7,797,000	7,797,000
Pretrial Services Agency	4,407,000	5,429,000	6,063,000	6,063,000	6,063,000	6,063,000
Department of Corrections	232,302,000	248,541,000	272,302,000	272,302,000	272,302,000	272,302,000
Board of Parole	5,322,000	5,305,000	8,277,000	8,277,000	8,277,000	8,277,000
National Guard	678,000	667,000	902,000	902,000	902,000	902,000
Office of Emergency Preparedness	2,194,000	2,142,000	2,887,000	2,887,000	2,887,000	2,887,000
Commission on Judicial Disabilities and Tenure	130,000	126,000	128,000	128,000	128,000	128,000
Judicial Nomination Commission	80,000	79,000	80,000	80,000	80,000	80,000
Total, Public Safety and Justice	963,848,000	969,972,000	1,055,339,000	1,055,339,000	1,055,339,000	1,055,339,000
Less Intra-District funds	(9,115,000)	(9,115,000)	(14,058,000)	(14,058,000)	(14,058,000)	(14,058,000)
Revised, Public Safety and Justice	954,733,000	960,857,000	1,041,281,000	1,041,281,000	1,041,281,000	1,041,281,000
Public Education System:						
Board of Education (Public Schools)	580,996,000	575,175,000	578,822,000	578,822,000	578,822,000	578,822,000
School Repairs	0	2,730,000	0	0	0	0
Teachers' Retirement System	111,800,000	111,800,000	88,900,000	88,900,000	88,900,000	88,900,000
University of the District of Columbia	79,396,000	76,943,000	76,287,000	76,287,000	76,287,000	76,287,000
Public Library	20,742,000	21,657,000	22,432,000	22,432,000	22,432,000	22,432,000
Commission on the Arts and Humanities	2,267,000	2,262,000	2,220,000	2,220,000	2,220,000	2,220,000
Total, Public Education System	795,201,000	790,567,000	768,661,000	768,661,000	768,661,000	768,661,000
Less Intra-District funds	(9,846,000)	(9,846,000)	(9,846,000)	(9,846,000)	(9,846,000)	(9,846,000)
Revised, Public Education System	785,355,000	780,721,000	758,815,000	758,815,000	758,815,000	758,815,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) -continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Human Support Services:						
Department of Human Services	1,705,427,000	1,566,614,000	1538200000	1,538,200,000	1,538,200,000	1,538,200,000
Department of Recreation and Parks	31,653,000	30,530,000	33,614,000	33,614,000	33,614,000	33,614,000
Office on Aging	19,009,000	18,994,000	19,169,000	19,169,000	19,169,000	19,169,000
D.C. General Hospital Payment	56,735,000	47,155,000	59,735,000	59,735,000	59,735,000	59,735,000
Unemployment Compensation Fund	10,000,000	5,937,000	7,678,000	7,678,000	7,678,000	7,678,000
Disability Compensation Fund	26,000,000	26,000,000	24,793,000	24,793,000	24,793,000	24,793,000
Department of Human Rights	1,301,000	1,388,000	974,000	974,000	974,000	974,000
Office on Latino Affairs	657,000	655,000	688,000	688,000	688,000	688,000
Commission for Women	20,000	20,000	0	0	0	0
D.C. Energy Office	4,212,000	4,167,000	5,326,000	5,326,000	5,326,000	5,326,000
Total, Human Support Services	1,855,014,000	1,701,460,000	1,690,177,000	1,690,177,000	1,690,177,000	1,690,177,000
Less Intra-District funds	(4,674,000)	(4,674,000)	(4,470,000)	(4,470,000)	(4,470,000)	(4,470,000)
Revised, Human Support Services	1,850,340,000	1,696,786,000	1,685,707,000	1,685,707,000	1,685,707,000	1,685,707,000
Public Works:						
Department of Public Works	161,227,000	151,729,000	159,042,000	159,042,000	159,042,000	159,042,000
Taxicab Commission	1,501,000	1,490,000	1,000,000	1,000,000	1,000,000	1,000,000
Washington Metropolitan Area Transit Commission	96,000	96,000	96,000	96,000	96,000	96,000
Washington Metropolitan Area Transit Authority (Metro)	130,899,000	130,899,000	131,820,000	131,820,000	131,820,000	131,820,000
School Transit Subsidy	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000	3,845,000
Total, Public Works	297,568,000	288,059,000	295,803,000	295,803,000	295,803,000	295,803,000
Less Intra-District funds	(50,629,000)	(50,629,000)	(47,836,000)	(47,836,000)	(47,836,000)	(47,836,000)
Revised, Public Works	246,939,000	237,430,000	247,967,000	247,967,000	247,967,000	247,967,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Financing and Other Uses:						
Washington Convention Center Transfer Payment	5,400,000	5,400,000	5,400,000	5,400,000	5,400,000	5,400,000
Repayment of Loans and Interest	327,787,000	327,787,000	333,710,000	333,710,000	333,710,000	333,710,000
Repayment of General Fund Recovery Debt	38,678,000	38,678,000	38,314,000	38,314,000	38,314,000	38,314,000
Interest on Short-Term Borrowing	9,698,000	18,420,000	34,461,000	34,461,000	34,461,000	34,461,000
Pay Renegotiation or Reduction in Compensation	(46,409,000)	0	0	0	0	0
Rainy Day Fund	4,563,000	0	0	0	0	0
Incentive Buyout Program	19,000,000	0	0	0	0	0
Outplacement Services	1,500,000	0	0	0	0	0
Boards and Commissions	(500,000)	0	0	0	0	0
Government Re-Engineering Program,	(16,000,000)	0	0	0	0	0
Presidential Inauguration	0	0	5,702,000	5,702,000	5,702,000	5,702,000
Certificate of Participation	0	0	0	7,926,000	7,926,000	7,926,000
Human Resources Development	0	0	0	12,257,000	12,257,000	12,257,000
Cost Reduction Initiatives	0	0	(21,375,000)	(47,411,000)	(47,411,000)	(47,411,000)
Personal and Nonpersonal Services Adjustments	(150,907,000)	0	0	0	0	0
Subtotal Financing and Other Uses	192,810,000	390,285,000	396,212,000	390,359,000	390,359,000	390,359,000
D.C. Financial Responsibility and Management Assistance Authority	3,500,000	3,150,000	3,400,000	3,400,000	3,400,000	3,400,000
Total, Financing and Other Uses	196,310,000	393,435,000	399,612,000	393,759,000	393,759,000	393,759,000
Total, general fund, operating expenses	4,398,054,000	4,413,012,000	4,491,928,000	4,491,928,000	4,491,928,000	4,491,928,000
Less Intra-District funds	(115,322,000)	(114,575,000)	(113,032,000)	(113,032,000)	(113,032,000)	(113,032,000)
Revised, general fund, operating expenses	4,282,732,000	4,298,437,000	4,378,896,000	4,378,896,000	4,378,896,000	4,378,896,000
Enterprise Funds:						
Department of Public Works (Utility Administration)	202,729,000	191,480,000	200,000,000	200,000,000	200,000,000	200,000,000
Washington Aqueduct	39,524,000	39,524,000	25,743,000	25,743,000	25,743,000	25,743,000
Total, Water and Sewer Enterprise Fund	242,253,000	231,004,000	225,743,000	225,743,000	225,743,000	225,743,000

DISTRICT OF COLUMBIA APPROPRIATIONS, 1997 (H.R. 3845) - continued

Agency/Activity	FY 1996 Approved	FY 1996 Distribution by Control Board	FY 1997 Request	House Recommendation	Senate Recommendation	Conference Agreement
Enterprise Funds - continued						
Lottery and Charitable Games	229,950,000	229,778,000	247,900,000	247,900,000	247,900,000	247,900,000
Cable Television	2,351,000	1,766,000	2,511,000	2,511,000	2,511,000	2,511,000
Sports Commission (STARPLEX)	6,580,000	6,547,000	8,717,000	8,717,000	8,717,000	8,717,000
D.C. General Hospital	58,299,000	58,092,000	58,299,000	58,299,000	58,299,000	58,299,000
Retirement Board	13,440,000	12,417,000	16,667,000	16,667,000	16,667,000	16,667,000
Correctional Industries Fund	10,516,000	8,827,000	9,152,000	9,152,000	9,152,000	9,152,000
Washington Convention Center	32,557,000	32,557,000	47,996,000	47,996,000	47,996,000	47,996,000
Total, Enterprise Funds	595,946,000	580,988,000	616,985,000	616,985,000	616,985,000	616,985,000
Less Intra-District funds	(50,017,000)	(48,512,000)	(21,496,000)	(21,496,000)	(21,496,000)	(21,496,000)
Revised, Enterprise Funds	545,929,000	532,476,000	595,489,000	595,489,000	595,489,000	595,489,000
Total, Operating Expenses	4,994,000,000	4,994,000,000	5,108,913,000	5,108,913,000	5,108,913,000	5,108,913,000
Less Intra-District funds	(165,339,000)	(163,087,000)	(134,528,000)	(134,528,000)	(134,528,000)	(134,528,000)
Revised, Operating Expenses	4,828,661,000	4,830,913,000	4,974,385,000	4,974,385,000	4,974,385,000	4,974,385,000
Capital Outlay	102,039,000	102,039,000	75,923,000	46,923,000	75,923,000	46,923,000
Grand Total, All funds	4,930,700,000	4,932,952,000	5,050,308,000	5,021,308,000	5,050,308,000	5,021,308,000

(NOTE. - Amounts recommended in the bill exclude intra-District funds whereas amounts in this table for departments and agencies include intra-District funds for comparison purposes with fiscal year 1996 which also included intra-District funds at the department and agency level.)

GENERAL PROVISIONS

Amendment No. 6: Restores language in section 129 proposed by the House and stricken by the Senate that prohibits the use of any funds in this Act for any abortion except to save the life of the mother or in cases of rape or incest.

Amendment No. 7: Restores language in section 130 proposed by the House and stricken by the Senate that prohibits the use of any funds in this Act (1) for any system of registration of unmarried cohabiting couples or (2) to implement or enforce the District's Domestic Partners Act.

Amendment No. 8: Inserts language in section 132 that adds the Financial Control Board to the entities in section 132 that are to receive monthly reports from the Board of Education as proposed by the Senate and deletes language in section 126 that would have prohibited the expenditure of funds by agencies for which a reorganization plan is required but has not been approved by the City Council prior to October 1, 1996. The language remaining in section 126 continues the prohibition on expenditures for such agencies until the City Council approves the required reorganization plans but removes the October 1, 1996 deadline for City Council approval.

Amendment No. 9: Adds the Financial Control Board to the entities in section 133 that are to receive monthly reports from the University of the District of Columbia as proposed by the Senate.

CEILING ON EXPENSES AND DEFICIT

Amendment No. 10: Amends language proposed by the House and stricken by the Senate in section 141 (1) establishing a ceiling on fiscal year 1997 operating expenses from all funds of $5,108,913,000 of which $134,528,000 are from intra-District funds as proposed by the House and stricken by the Senate; (2) limiting the operating deficit from all funds for fiscal year 1997 to $74,000,000 instead of $40,000,000 as proposed by the House and stricken by the Senate, and (3) requiring the Chief Financial Officer and the Financial Control Board to take such steps as are necessary to meet these requirements including the apportioning of appropriations and funds by the Chief Financial Officer during fiscal year 1997 as proposed by the House and stricken by the Senate.

The conferees urge the Mayor, the City Council, and the control board to use every means possible to reduce the costs of operating the Nation's Capital and make every effort to avoid deficit spending.

CHIEF FINANCIAL OFFICER POWERS

Amendment No. 11: Amends language in section 142 proposed by the House and the Senate to clarify that all financial personnel in the executive branch of the District government, including all independent agencies and excluding the legislative and judicial branches of the District Government, are under the exclusive control of the Chief Financial Officer instead of all financial personnel in the executive branch of the District government as proposed by the House and all financial personnel except those in the legislative and judicial branches as proposed by the Senate. The clarification is required to insure that the financial personnel of each independent agency in the District, without exception, are appointed by, serve at the pleasure of, and act under the direction and control of the Chief Financial Officer. The conferees do not expect any misinterpretation of the intent of this statute and direct the Chief Financial Officer to notify, in writing, the Committees on Appropriations as well as the respective authorizing committees of the House and the Senate of any person of any executive branch agency including any independent agency who fails to comply with the requirements of this section within five calendar days of the failure to comply.

HOUSING FINANCE AGENCY

Amendment No. 12: Inserts a new section 147 as proposed by the Senate that forgives the District of Columbia Housing Finance Agency from the requirement to repay the District's general fund for $10,591,000 appropriated during fiscal years 1980–1992 for the operations of the Agency. See also amendment number 2 for a further discussion of this issue.

SCHOOL REFORM

Amendment No. 13: Inserts a new section 148 as proposed by the Senate that amends section 2561(b) of the District of Columbia School Reform Act of 1995 (Public Law 104–134) to exclude Executive Order 11246 from being waived for construction or maintenance projects coordinated through the Federal General Services Administration for the District's public school facilities. Executive Order 11246 governs civil rights protections for Federal government construction contracts.

OTHER GENERAL PROVISIONS

Amendment No. 14: Inserts new general provisions numbered 149, 150 and 151 instead of a new general provision numbered 149 as proposed by the Senate. The additional general provisions were requested by the House authorizing committee and concurred in by the Senate authorizing committee. A brief explanation of each of these general provisions follows.

Language agreed to by the conferees in section 149 proposed by the Senate authorizes the District of Columbia Energy Office, subject to control board review, to negotiate energy performance contracts for periods up to 25 years with energy service companies who will provide investment capital to reduce energy consumption in District facilities. Through this method, the energy service companies will install energy efficient lighting, heating, and cooling systems using their investment capital with their payback coming in future years from a portion of the money saved when the energy bills are lowered. It is estimated that the District government could realize annual savings of $50,000,000 in its energy costs through this program.

Language requested by the House authorizing committee and agreed to by the conferees in section 150 reduces the minimum size of the Board of Trustees of American University from 40 to 25. According to the authorizing committee, this change was requested by the University.

Language requested by the House authorizing committee and agreed to by the conferees in section 151 waives the 30-day congressional layover period for three specific pieces of legislation already approved by the District government. The Tax Lien Act of 1996 (D.C. Act 11–353) will expedite the District's ability to sell $50,000,000 in uncollected property taxes in return for $44,000,000 in cash. The authorizing committee stated that this transaction could not move ahead in a timely manner unless the review period is waived. Section 151 also waives the 30-day congressional layover for the Telecommunications Competition Act of 1996 (D.C. Act 11–300) and the Mortgage Lenders and Brokers Act of 1996 (D.C. Act 11–309) which together comprise the District's efforts to implement the Federal Telecommunications Act. The District's Telecommunications Act opens the District's market to telecommunications services providers. The Mortgage Lenders and Brokers Act regulates mortgage lenders in the District and also contains substantive amendments to the Telecommunications Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1997 recommended by the Committee of Conference, with comparisons to the fiscal year 1996 amount, the 1997 budget estimates, and the House and Senate bills for 1997 follow:

Federal funds	
New budget (obligational) authority, fiscal year 1996	$712,070,000
Budget estimates of new (obligational) authority, fiscal year 1997	769,842,000
House bill, fiscal year 1997	717,772,000
Senate bill, fiscal year 1997	717,772,000
Conference agreement, fiscal year 1997	718,772,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1996	6,702,000
Budget estimates of new (obligational) authority, fiscal year 1997	(51,070,000)
House bill, fiscal year 1997	1,000,000
Senate bill, fiscal year 1997	1,000,000
District of Columbia Funds	
New budget (obligational) authority, fiscal year 1996	*[1] 4,930,7000,000*
Budget estimates of new (obligational) authority, fiscal year 1997	*5,050,308,000*
House bill, fiscal year 1997	*5,021,308,000*
Senate bill, fiscal year 1997	*5,050,308,000*
Conference agreement, fiscal year 1997	*5,021,308,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1996	*90,608,000*
Budget estimates of new (obligational) authority, fiscal year 1997	*(29,000,000)*
House bill, fiscal year 1997	*0*
Senate bill, fiscal year 1997	*(29,000,000)*

[1] Excludes $165,339,000 in intra-District funds for comparability purposes with fiscal year 1997 which excludes intra-District funds.

JAMES T. WALSH,
HENRY BONILLA,
JACK KINGSTON,
R.P. FRELINGHUYSEN,
MARK W. NEUMANN,
MIKE PARKER,
BOB LIVINGSTON,
JULIAN C. DIXON,
JOSÉ E. SERRANO,
MARCY KAPTUR,
DAVID R. OBEY,
Managers on the Part of the House.

JAMES M. JEFFORDS,
BEN NIGHTHORSE CAMPBELL,
MARK O. HATFIELD,
HERB KOHL,
DANIEL K. INOUYE,
(Except amendments No. 6 and No. 7),
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1316, SAFE DRINKING WATER ACT AMENDMENTS OF 1996

Mr. BLILEY submitted the following conference report and statement on the Senate bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes:

CONFERENCE REPORT (H. REPT. 104-741)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1316), to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe Drinking Water Act Amendments of 1996".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. References; effective date; disclaimer.
Sec. 3. Findings.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

Sec. 101. Definitions.
Sec. 102. General authority.
Sec. 103. Risk assessment, management, and communication.
Sec. 104. Standard-setting.
Sec. 105. Treatment technologies for small systems.
Sec. 106. Limited alternative to filtration.
Sec. 107. Ground water disinfection.
Sec. 108. Effective date for regulations.
Sec. 109. Arsenic, sulfate, and radon.
Sec. 110. Recycling of filter backwash.
Sec. 111. Technology and treatment techniques.
Sec. 112. State primacy.
Sec. 113. Enforcement; judicial review.
Sec. 114. Public notification.
Sec. 115. Variances.
Sec. 116. Small systems variances.
Sec. 117. Exemptions.
Sec. 118. Lead plumbing and pipes.
Sec. 119. Capacity development.
Sec. 120. Authorization of appropriations for certain ground water programs.
Sec. 121. Amendments to section 1442.
Sec. 122. Technical assistance.
Sec. 123. Operator certification.
Sec. 124. Public water system supervision program.
Sec. 125. Monitoring and information gathering.
Sec. 126. Occurrence data base.
Sec. 127. Drinking Water Advisory Council.
Sec. 128. New York City watershed protection program.
Sec. 129. Federal agencies.
Sec. 130. State revolving loan funds.
Sec. 131. State ground water protection grants.
Sec. 132. Source water assessment.
Sec. 133. Source water petition program.
Sec. 134. Water conservation plan.
Sec. 135. Drinking water assistance to colonias.
Sec. 136. Estrogenic substances screening program.
Sec. 137. Drinking water studies.

TITLE II—DRINKING WATER RESEARCH

Sec. 201. Drinking water research authorization.
Sec. 202. Scientific research review.
Sec. 203. National center for ground water research.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Water return flows.
Sec. 302 Transfer of funds.
Sec. 303. Grants to Alaska to improve sanitation in rural and Native villages.
Sec. 304. Sense of the Congress.
Sec. 305. Bottled drinking water standards.
Sec. 306. Washington Aqueduct.
Sec. 307. Wastewater assistance to colonias.
Sec. 308. Prevention and control of zebra mussel infestation of Lake Champlain.

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

Sec. 401. National program.

TITLE V—CLERICAL AMENDMENTS

Sec. 501. Clerical amendments.

SEC. 2. REFERENCES; EFFECTIVE DATE; DISCLAIMER.

(a) REFERENCES TO SAFE DRINKING WATER ACT.—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 that section or other provision of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.).

(b) EFFECTIVE DATE.—Except as otherwise specified in this Act or in the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(c) DISCLAIMER.—Except for the provisions of section 302 (relating to transfers of funds), nothing in this Act or in any amendments made by this Act to title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") or any other law shall be construed by the Administrator of the Environmental Protection Agency or the courts as affecting, modifying, expanding, changing, or altering—

(1) the provisions of the Federal Water Pollution Control Act;

(2) the duties and responsibilities of the Administrator under that Act; or

(3) the regulation or control of point or nonpoint sources of pollution discharged into waters covered by that Act.

The Administrator shall identify in the agency's annual budget all funding and full-time equivalents administering such title XIV separately from funding and staffing for the Federal Water Pollution Control Act.

SEC. 3. FINDINGS.

The Congress finds that—

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) the Federal Government commits to maintaining and improving its partnership with the States in the administration and implementation of the Safe Drinking Water Act;

(4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs;

(5) the existing process for the assessment and selection of additional drinking water contaminants needs to be revised and improved to ensure that there is a sound scientific basis for setting priorities in establishing drinking water regulations;

(6) procedures for assessing the health effects of contaminants establishing drinking water standards should be revised to provide greater opportunity for public education and participation;

(7) in considering the appropriate level of regulation for contaminants in drinking water, risk assessment, based on sound and objective science, and benefit-cost analysis are important analytical tools for improving the efficiency and effectiveness of drinking water regulations to protect human health;

(8) more effective protection of public health requires—

(A) a Federal commitment to set priorities that will allow scarce Federal, State, and local resources to be targeted toward the drinking water problems of greatest public health concern;

(B) maximizing the value of the different and complementary strengths and responsibilities of the Federal and State governments in those States that have primary enforcement responsibility for the Safe Drinking Water Act; and

(C) prevention of drinking water contamination through well-trained system operators, water systems with adequate managerial, technical, and financial capacity, and enhanced protection of source waters of public water systems;

(9) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations, and Federal, State, and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act; and

(10) consumers served by public water systems should be provided with information on the source of the water they are drinking and its quality and safety, as well as prompt notification of any violation of drinking water regulations.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

SEC. 101. DEFINITIONS.

(a) IN GENERAL.—Section 1401 (42 U.S.C. 300f) is amended as follows:

(1) In paragraph (1)—

(A) in subparagraph (D), by inserting "accepted methods for" before "quality control"; and

(B) by adding at the end the following: "At any time after promulgation of a regulation referred to in this paragraph, the Administrator may add equally effective quality control and testing procedures by guidance published in the Federal Register. Such procedures shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.".

(2) In paragraph (13)—

(A) by striking "The" and inserting "(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) For purposes of section 1452, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(3) In paragraph (14), by adding at the end the following: "For purposes of section 1452, the term includes any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c))).".

(4) By adding at the end the following:

"(15) COMMUNITY WATER SYSTEM.—The term 'community water system' means a public water system that—

"(A) serves at least 15 service connections used by year-round residents of the area served by the system; or

"(B) regularly serves at least 25 year-round residents.

"(16) NONCOMMUNITY WATER SYSTEM.—The term 'noncommunity water system' means a public water system that is not a community water system.".

(b) PUBLIC WATER SYSTEM.—

(1) IN GENERAL.—Section 1401(4) (42 U.S.C. 300f(4)) is amended as follows:

(A) In the first sentence, by striking "piped water for human consumption" and inserting "water for human consumption through pipes or other constructed conveyances".

(B) By redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively.

(C) By striking "(4) The" and inserting the following:

"(4) PUBLIC WATER SYSTEM.—

"(A) IN GENERAL.—The"; and

(D) by adding at the end the following:

"(B) CONNECTIONS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if—

"(I) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

"(II) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

"(III) the Administrator or the State (in the case of a State exercising primary enforcement responsibility for public water systems) determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"(ii) IRRIGATION DISTRICTS.—An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public water system if the system or the residential or similar users of the system comply with subclause (II) or (III) of clause (i).

"(C) TRANSITION PERIOD.—A water supplier that would be a public water system only as a result of modifications made to this paragraph by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public water system for purposes of the Act until the date that is two years after the date of enactment of this subparagraph. If a water supplier does not serve 15 service connections (as defined in subparagraphs (A) and (B)) or 25 people at any time after the conclusion of the 2-year period, the water supplier shall not be considered a public water system.".

(2) GAO STUDY.—The Comptroller General of the United States shall undertake a study to—

(A) ascertain the numbers and locations of individuals and households relying for their residential water needs, including drinking, bathing, and cooking (or other similar uses) on irrigation water systems, mining water systems, industrial water systems, or other water systems covered by section 1401(4)(B) of the Safe Drinking Water Act that are not public water systems subject to the Safe Drinking Water Act;

(B) determine the sources and costs and affordability (to users and systems) of water used by such populations for their residential water needs; and

(C) review State and water system compliance with the exclusion provisions of section 1401(4)(B) of such Act.

The Comptroller General shall submit a report to the Congress within 3 years after the date of enactment of this Act containing the results of such study.

SEC. 102. GENERAL AUTHORITY.

(a) STANDARDS.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by striking "(b)(1)" and all that follows through the end of paragraph (3) and inserting the following:

"(b) STANDARDS.—

"(1) IDENTIFICATION OF CONTAMINANTS FOR LISTING.—

"(A) GENERAL AUTHORITY.—The Administrator shall, in accordance with the procedures established by this subsection, publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for a contaminant (other than a contaminant referred to in paragraph (2) for which a national primary drinking water regulation has been promulgated as of the date of enactment of the Safe Drinking Water Act Amendments of 1996) if the Administrator determines that—

"(i) the contaminant may have an adverse effect on the health of persons;

"(ii) the contaminant is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern; and

"(iii) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

"(B) REGULATION OF UNREGULATED CONTAMINANTS.—

"(i) LISTING OF CONTAMINANTS FOR CONSIDERATION.—(I) Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator, after consultation with the scientific community, including the Science Advisory Board, after notice and opportunity for public comment, and after considering the occurrence data base established under section 1445(g), shall publish a list of contaminants which, at the time of publication, are not subject to any proposed or promulgated national primary drinking water regulation, which are known or anticipated to occur in public water systems, and which may require regulation under this title.

"(II) The unregulated contaminants considered under subclause (I) shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(III) The Administrator's decision whether or not to select an unregulated contaminant for a list under this clause shall not be subject to judicial review.

"(ii) DETERMINATION TO REGULATE.—(I) Not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 5 years thereafter, the Administrator shall, after notice of the preliminary determination and opportunity for public comment, for not fewer than 5 contaminants included on the list published under clause (i), make determinations of whether or not to regulate such contaminants.

"(II) A determination to regulate a contaminant shall be based on findings that the criteria of clauses (i), (ii), and (iii) of subparagraph (A) are satisfied. Such findings shall be based on the best available public health information, including the occurrence data base established under section 1445(g).

"(III) The Administrator may make a determination to regulate a contaminant that does not appear on a list under clause (i) if the determination to regulate is made pursuant to subclause (II).

"(IV) A determination under this clause not to regulate a contaminant shall be considered final agency action and subject to judicial review.

"(iii) REVIEW.—Each document setting forth the determination for a contaminant under clause (ii) shall be available for public comment at such time as the determination is published.

"(C) PRIORITIES.—In selecting unregulated contaminants for consideration under subparagraph (B), the Administrator shall select contaminants that present the greatest public health concern. The Administrator, in making such selection, shall take into consideration, among other factors of public health concern, the effect of such contaminants upon subgroups that comprise a meaningful portion of the general population (such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations) that are identifiable as being at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

"(D) URGENT THREATS TO PUBLIC HEALTH.—The Administrator may promulgate an interim national primary drinking water regulation for a contaminant without making a determination for the contaminant under paragraph (4)(C), or completing the analysis under paragraph (3)(C), to address an urgent threat to public health as determined by the Administrator after consultation with and written response to any comments provided by the Secretary of Health and Human Services, acting through the director of the Centers for Disease Control and Prevention or the director of the National Institutes of Health. A determination for any contaminant in accordance with paragraph (4)(C) subject to an interim regulation under this subparagraph shall be issued, and a completed analysis meeting the requirements of paragraph (3)(C) shall be published, not later than 3 years after the date on which the regulation is promulgated and the regulation shall be repromulgated, or revised if appropriate, not later than 5 years after that date.

"(E) REGULATION.—For each contaminant that the Administrator determines to regulate under subparagraph (B), the Administrator shall publish maximum contaminant level goals and promulgate, by rule, national primary drinking water regulations under this subsection. The Administrator shall propose the maximum contaminant level goal and national primary drinking water regulation for a contaminant not later than 24 months after the determination to regulate under subparagraph (B), and may publish such proposed regulation concurrent with the determination to regulate. The Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation within 18 months after the proposal thereof. The Administrator, by notice in the Federal Register, may extend the deadline for such promulgation for up to 9 months.

"(F) HEALTH ADVISORIES AND OTHER ACTIONS.—The Administrator may publish health advisories (which are not regulations) or take other appropriate actions for contaminants not subject to any national primary drinking water regulation.

"(2) SCHEDULES AND DEADLINES.—

"(A) IN GENERAL.—In the case of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal

Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall publish maximum contaminant level goals and promulgate national primary drinking water regulations—

"(i) not later than 1 year after June 19, 1986, for not fewer than 9 of the listed contaminants;

"(ii) not later than 2 years after June 19, 1986, for not fewer than 40 of the listed contaminants; and

"(iii) not later than 3 years after June 19, 1986, for the remainder of the listed contaminants.

"(B) SUBSTITUTION OF CONTAMINANTS.—If the Administrator identifies a drinking water contaminant the regulation of which, in the judgment of the Administrator, is more likely to be protective of public health (taking into account the schedule for regulation under subparagraph (A)) than a contaminant referred to in subparagraph (A), the Administrator may publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for the identified contaminant in lieu of regulating the contaminant referred to in subparagraph (A). Substitutions may be made for not more than 7 contaminants referred to in subparagraph (A). Regulation of a contaminant identified under this subparagraph shall be in accordance with the schedule applicable to the contaminant for which the substitution is made.

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator shall promulgate an Interim Enhanced Surface Water Treatment Rule, a Final Enhanced Surface Water Treatment Rule, a Stage I Disinfectants and Disinfection Byproducts Rule, and a Stage II Disinfectants and Disinfection Byproducts Rule in accordance with the schedule published in volume 59, Federal Register, page 6361 (February 10, 1994), in table III.13 of the proposed Information Collection Rule. If a delay occurs with respect to the promulgation of any rule in the schedule referred to in this subparagraph, all subsequent rules shall be completed as expeditiously as practicable but no later than a revised date that reflects the interval or intervals for the rules in the schedule.".

(b) APPLICABILITY OF PRIOR REQUIREMENTS.—The requirements of subparagraphs (C) and (D) of section 1412(b)(3) of the Safe Drinking Water Act as in effect before the date of enactment of this Act, and any obligation to promulgate regulations pursuant to such subparagraphs not promulgated as of the date of enactment of this Act, are superseded by the amendments made by subsection (a).

(c) CONFORMING AMENDMENTS.—(1) Section 1415(d) (42 U.S.C. 300g–4(d)) is amended by striking "1412(b)(3)" and inserting "1412(b)".

(2) Section 1412(a)(3) (42 U.S.C. 300g–1(a)(3)) is amended by striking "paragraph (1), (2), or (3) of" in each place it appears.

SEC. 103. RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by inserting after paragraph (2) the following:

"(3) RISK ASSESSMENT, MANAGEMENT, AND COMMUNICATION.—

"(A) USE OF SCIENCE IN DECISIONMAKING.—In carrying out this section, and, to the degree that an Agency action is based on science, the Administrator shall use—

"(i) the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

"(ii) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justifies use of the data).

"(B) PUBLIC INFORMATION.—In carrying out this section, the Administrator shall ensure that the presentation of information on public health effects is comprehensive, informative, and understandable. The Administrator shall, in a document made available to the public in support of a regulation promulgated under this section, specify, to the extent practicable—

"(i) each population addressed by any estimate of public health effects;

"(ii) the expected risk or central estimate of risk for the specific populations;

"(iii) each appropriate upper-bound or lower-bound estimate of risk;

"(iv) each significant uncertainty identified in the process of the assessment of public health effects and studies that would assist in resolving the uncertainty; and

"(v) peer-reviewed studies known to the Administrator that support, are directly relevant to, or fail to support any estimate of public health effects and the methodology used to reconcile inconsistencies in the scientific data.

"(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—

"(i) MAXIMUM CONTAMINANT LEVELS.—When proposing any national primary drinking water regulation that includes a maximum contaminant level, the Administrator shall, with respect to a maximum contaminant level that is being considered in accordance with paragraph (4) and each alternative maximum contaminant level that is being considered pursuant to paragraph (5) or (6)(A), publish, seek public comment on, and use for the purposes of paragraphs (4), (5), and (6) an analysis of each of the following:

"(I) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur as the result of treatment to comply with each level.

"(II) Quantifiable and nonquantifiable health risk reduction benefits for which there is a factual basis in the rulemaking record to conclude that such benefits are likely to occur from reductions in co-occurring contaminants that may be attributed solely to compliance with the maximum contaminant level, excluding benefits resulting from compliance with other proposed or promulgated regulations.

"(III) Quantifiable and nonquantifiable costs for which there is a factual basis in the rulemaking record to conclude that such costs are likely to occur solely as a result of compliance with the maximum contaminant level, including monitoring, treatment, and other costs and excluding costs resulting from compliance with other proposed or promulgated regulations.

"(IV) The incremental costs and benefits associated with each alternative maximum contaminant level considered.

"(V) The effects of the contaminant on the general population and on groups within the general population such as infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that are identified as likely to be at greater risk of adverse health effects due to exposure to contaminants in drinking water than the general population.

"(VI) Any increased health risk that may occur as the result of compliance, including risks associated with co-occurring contaminants.

"(VII) Other relevant factors, including the quality and extent of the information, the uncertainties in the analysis supporting subclauses (I) through (VI), and factors with respect to the degree and nature of the risk.

"(ii) TREATMENT TECHNIQUES.—When proposing a national primary drinking water regulation that includes a treatment technique in accordance with paragraph (7)(A), the Administrator shall publish and seek public comment on an analysis of the health risk reduction benefits and costs likely to be experienced as the result of compliance with the treatment technique and alternative treatment techniques that are being considered, taking into account, as appropriate, the factors described in clause (i).

"(iii) APPROACHES TO MEASURE AND VALUE BENEFITS.—The Administrator may identify valid approaches for the measurement and valuation of benefits under this subparagraph, including approaches to identify consumer willingness to pay for reductions in health risks from drinking water contaminants.

"(iv) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, acting through the Office of Ground Water and Drinking Water, to conduct studies, assessments, and analyses in support of regulations or the development of methods, $35,000,000 for each of fiscal years 1996 through 2003.".

SEC. 104. STANDARD-SETTING.

(a) IN GENERAL.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended as follows:

(1) In paragraph (4)—

(A) by striking "(4) Each" and inserting the following:

"(4) GOALS AND STANDARDS.—

"(A) MAXIMUM CONTAMINANT LEVEL GOALS.—Each";

(B) in the last sentence—

(i) by striking "Each national" and inserting the following:

"(B) MAXIMUM CONTAMINANT LEVELS.— Except as provided in paragraphs (5) and (6), each national"; and

(ii) by striking "maximum level" and inserting "maximum contaminant level"; and

(C) by adding at the end the following:

"(C) DETERMINATION.—At the time the Administrator proposes a national primary drinking water regulation under this paragraph, the Administrator shall publish a determination as to whether the benefits of the maximum contaminant level justify, or do not justify, the costs based on the analysis conducted under paragraph (3)(C).".

(2) By striking "(5) For the" and inserting the following:

"(D) DEFINITION OF FEASIBLE.—For the".

(3) In the second sentence of paragraph (4)(D) (as so designated), by striking "paragraph (4)" and inserting "this paragraph".

(4) By striking "(6) Each national" and inserting the following:

"(E) FEASIBLE TECHNOLOGIES.—

"(i) IN GENERAL.—Each national".

(5) In paragraph (4)(E)(i) (as so designated), by striking "this paragraph" and inserting "this subsection".

(6) By inserting after paragraph (4) (as so amended) the following:

"(5) ADDITIONAL HEALTH RISK CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), the Administrator may establish a maximum contaminant level for a contaminant at a level other than the feasible level, if the technology, treatment techniques, and other means used to determine the feasible level would result in an increase in the health risk from drinking water by—

"(i) increasing the concentration of other contaminants in drinking water; or

"(ii) interfering with the efficacy of drinking water treatment techniques or processes that are used to comply with other national primary drinking water regulations.

"(B) ESTABLISHMENT OF LEVEL.—If the Administrator establishes a maximum contaminant level or levels or requires the use of treatment techniques for any contaminant or contaminants pursuant to the authority of this paragraph—

"(i) the level or levels or treatment techniques shall minimize the overall risk of adverse health

effects by balancing the risk from the contaminant and the risk from other contaminants the concentrations of which may be affected by the use of a treatment technique or process that would be employed to attain the maximum contaminant level or levels; and

"(ii) the combination of technology, treatment techniques, or other means required to meet the level or levels shall not be more stringent than is feasible (as defined in paragraph (4)(D)).

"(6) ADDITIONAL HEALTH RISK REDUCTION AND COST CONSIDERATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (4), if the Administrator determines based on an analysis conducted under paragraph (3)(C) that the benefits of a maximum contaminant level promulgated in accordance with paragraph (4) would not justify the costs of complying with the level, the Administrator may, after notice and opportunity for public comment, promulgate a maximum contaminant level for the contaminant that maximizes health risk reduction benefits at a cost that is justified by the benefits.

"(B) EXCEPTION.—The Administrator shall not use the authority of this paragraph to promulgate a maximum contaminant level for a contaminant, if the benefits of compliance with a national primary drinking water regulation for the contaminant that would be promulgated in accordance with paragraph (4) experienced by—

"(i) persons served by large public water systems; and

"(ii) persons served by such other systems as are unlikely, based on information provided by the States, to receive a variance under section 1415(e) (relating to small system variances);

would justify the costs to the systems of complying with the regulation. This subparagraph shall not apply if the contaminant is found almost exclusively in small systems eligible under section 1415(e) for a small system variance.

"(C) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator may not use the authority of this paragraph to establish a maximum contaminant level in a Stage I or Stage II national primary drinking water regulation (as described in paragraph (2)(C)) for contaminants that are disinfectants or disinfection byproducts, or to establish a maximum contaminant level or treatment technique requirement for the control of cryptosporidium. The authority of this paragraph may be used to establish regulations for the use of disinfection by systems relying on ground water sources as required by paragraph (8).

"(D) JUDICIAL REVIEW.—A determination by the Administrator that the benefits of a maximum contaminant level or treatment requirement justify or do not justify the costs of complying with the level shall be reviewed by the court pursuant to section 1448 only as part of a review of a final national primary drinking water regulation that has been promulgated based on the determination and shall not be set aside by the court under that section unless the court finds that the determination is arbitrary and capricious.".

(b) DISINFECTANTS AND DISINFECTION BYPRODUCTS.—The Administrator of the Environmental Protection Agency may use the authority of section 1412(b)(5) of the Safe Drinking Water Act (as amended by this Act) to promulgate the Stage I and Stage II Disinfectants and Disinfection Byproducts Rules as proposed in volume 59, Federal Register, page 38668 (July 29, 1994). The considerations used in the development of the July 29, 1994, proposed national primary drinking water regulation on disinfectants and disinfection byproducts shall be treated as consistent with such section 1412(b)(5) for purposes of such Stage I and Stage II rules.

(c) REVIEW OF STANDARDS.—Section 1412(b)(9) (42 U.S.C. 300g-1(b)(9)) is amended to read as follows:

"(9) REVIEW AND REVISION.—The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.".

SEC. 105. TREATMENT TECHNOLOGIES FOR SMALL SYSTEMS.

Section 1412(b)(4)(E) (42 U.S.C. 300g-1(b)(4)(E)) is amended by adding at the end the following:

"(ii) LIST OF TECHNOLOGIES FOR SMALL SYSTEMS.—The Administrator shall include in the list any technology, treatment technique, or other means that is affordable, as determined by the Administrator in consultation with the States, for small public water systems serving—

"(I) a population of 10,000 or fewer but more than 3,300;

"(II) a population of 3,300 or fewer but more than 500; and

"(III) a population of 500 or fewer but more than 25;

and that achieves compliance with the maximum contaminant level or treatment technique, including packaged or modular systems and point-of-entry or point-of-use treatment units. Point-of-entry and point-of-use treatment units shall be owned, controlled and maintained by the public water system or by a person under contract with the public water system to ensure proper operation and maintenance and compliance with the maximum contaminant level or treatment technique and equipped with mechanical warnings to ensure that customers are automatically notified of operational problems. The Administrator shall not include in the list any point-of-use treatment technology, treatment technique, or other means to achieve compliance with a maximum contaminant level or treatment technique requirement for a microbial contaminant (or an indicator of a microbial contaminant). If the American National Standards Institute has issued product standards applicable to a specific type of point-of-entry or point-of-use treatment unit, individual units of that type shall not be accepted for compliance with a maximum contaminant level or treatment technique requirement unless they are independently certified in accordance with such standards. In listing any technology, treatment technique, or other means pursuant to this clause, the Administrator shall consider the quality of the source water to be treated.

"(iii) LIST OF TECHNOLOGIES THAT ACHIEVE COMPLIANCE.—Except as provided in clause (v), not later than 2 years after the date of enactment of this clause and after consultation with the States, the Administrator shall issue a list of technologies that achieve compliance with the maximum contaminant level or treatment technique for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph.

"(iv) ADDITIONAL TECHNOLOGIES.—The Administrator may, at any time after a national primary drinking water regulation has been promulgated, supplement the list of technologies describing additional or new or innovative treatment technologies that meet the requirements of this paragraph for categories of small public water systems described in subclauses (I), (II), and (III) of clause (ii) that are subject to the regulation.

"(v) TECHNOLOGIES THAT MEET SURFACE WATER TREATMENT RULE.—Within one year after the date of enactment of this clause, the Administrator shall list technologies that meet the Surface Water Treatment Rule for each category of public water systems described in subclauses (I), (II), and (III) of clause (ii).".

SEC. 106. LIMITED ALTERNATIVE TO FILTRATION.

Section 1412(b)(7)(C) (42 U.S.C. 300g-1(b)(7)(C)) is amended by adding the following after clause (iv):

"(v) As an additional alternative to the regulations promulgated pursuant to clauses (i) and (iii), including the criteria for avoiding filtration contained in 40 CFR 141.71, a State exercising primary enforcement responsibility for public water systems may, on a case-by-case basis, and after notice and opportunity for public comment, establish treatment requirements as an alternative to filtration in the case of systems having uninhabited, undeveloped watersheds in consolidated ownership, and having control over access to, and activities in, those watersheds, if the State determines (and the Administrator concurs) that the quality of the source water and the alternative treatment requirements established by the State ensure greater removal or inactivation efficiencies of pathogenic organisms for which national primary drinking water regulations have been promulgated or that are of public health concern than would be achieved by the combination of filtration and chlorine disinfection (in compliance with this section).".

SEC. 107. GROUND WATER DISINFECTION.

Paragraph (8) of section 1412(b) (42 U.S.C. 300g-1(b)(8)) is amended by moving the margins of such paragraph 2 ems to the right and by striking the first sentence and inserting the following: "DISINFECTION.—At any time after the end of the 3-year period that begins on the date of enactment of the Safe Drinking Water Act Amendments of 1996, but not later than the date on which the Administrator promulgates a Stage II rulemaking for disinfectants and disinfection byproducts (as described in paragraph (2)(C)), the Administrator shall also promulgate national primary drinking water regulations requiring disinfection as a treatment technique for all public water systems, including surface water systems and, as necessary, ground water systems. After consultation with the States, the Administrator shall (as part of the regulations) promulgate criteria that the Administrator, or a State that has primary enforcement responsibility under section 1413, shall apply to determine whether disinfection shall be required as a treatment technique for any public water system served by ground water.".

SEC. 108. EFFECTIVE DATE FOR REGULATIONS.

Section 1412(b)(10) (42 U.S.C. 300g-1(b)(10)) is amended to read as follows:

"(10) EFFECTIVE DATE.—A national primary drinking water regulation promulgated under this section (and any amendment thereto) shall take effect on the date that is 3 years after the date on which the regulation is promulgated unless the Administrator determines that an earlier date is practicable, except that the Administrator, or a State (in the case of an individual system), may allow up to 2 additional years to comply with a maximum contaminant level or treatment technique if the Administrator or State (in the case of an individual system) determines that additional time is necessary for capital improvements.".

SEC. 109. ARSENIC, SULFATE, AND RADON.

(a) ARSENIC AND SULFATE.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by inserting after paragraph (11) the following:

"(12) CERTAIN CONTAMINANTS.—

"(A) ARSENIC.—

"(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the

Administrator shall promulgate a national primary drinking water regulation for arsenic pursuant to this subsection, in accordance with the schedule established by this paragraph.

"(ii) STUDY PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall develop a comprehensive plan for study in support of drinking water rulemaking to reduce the uncertainty in assessing health risks associated with exposure to low levels of arsenic. In conducting such study, the Administrator shall consult with the National Academy of Sciences, other Federal agencies, and interested public and private entities.

"(iii) COOPERATIVE AGREEMENTS.—In carrying out the study plan, the Administrator may enter into cooperative agreements with other Federal agencies, State and local governments, and other interested public and private entities.

"(iv) PROPOSED REGULATIONS.—The Administrator shall propose a national primary drinking water regulation for arsenic not later than January 1, 2000.

"(v) FINAL REGULATIONS.—Not later than January 1, 2001, after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for arsenic.

"(vi) AUTHORIZATION.—There are authorized to be appropriated $2,500,000 for each of fiscal years 1997 through 2000 for the studies required by this paragraph.

"(B) SULFATE.—

"(i) ADDITIONAL STUDY.—Prior to promulgating a national primary drinking water regulation for sulfate, the Administrator and the Director of the Centers for Disease Control and Prevention shall jointly conduct an additional study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to sulfate in drinking water, including the health effects that may be experienced by groups within the general population (including infants and travelers) that are potentially at greater risk of adverse health effects as the result of such exposure. The study shall be conducted in consultation with interested States, shall be based on the best available, peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices, and shall be completed not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(ii) DETERMINATION.—The Administrator shall include sulfate among the 5 or more contaminants for which a determination is made pursuant to paragraph (3)(B) not later than 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(iii) PROPOSED AND FINAL RULE.—Notwithstanding the deadlines set forth in paragraph (2), the Administrator may, pursuant to the authorities of this subsection and after notice and opportunity for public comment, promulgate a final national primary drinking water regulation for sulfate. Any such regulation shall include requirements for public notification and options for the provision of alternative water supplies to populations at risk as a means of complying with the regulation in lieu of a best available treatment technology or other means.".

(b) RADON.—Section 1412(b) (42 U.S.C. 300g-1(b)) is amended by inserting after paragraph (12) the following:

"(13) RADON IN DRINKING WATER.—

"(A) NATIONAL PRIMARY DRINKING WATER REGULATION.—Notwithstanding paragraph (2), the Administrator shall withdraw any national primary drinking water regulation for radon proposed prior to the date of enactment of this paragraph and shall propose and promulgate a regulation for radon under this section, as amended by the Safe Drinking Water Act Amendments of 1996.

"(B) RISK ASSESSMENT AND STUDIES.—

"(i) ASSESSMENT BY NAS.—Prior to proposing a national primary drinking water regulation for radon, the Administrator shall arrange for the National Academy of Sciences to prepare a risk assessment for radon in drinking water using the best available science in accordance with the requirements of paragraph (3). The risk assessment shall consider each of the risks associated with exposure to radon from drinking water and consider studies on the health effects of radon at levels and under conditions likely to be experienced through residential exposure. The risk assessment shall be peer-reviewed.

"(ii) STUDY OF OTHER MEASURES.—The Administrator shall arrange for the National Academy of Sciences to prepare an assessment of the health risk reduction benefits associated with various mitigation measures to reduce radon levels in indoor air. The assessment may be conducted as part of the risk assessment authorized by clause (i) and shall be used by the Administrator to prepare the guidance and approve State programs under subparagraph (G).

"(iii) OTHER ORGANIZATION.—If the National Academy of Sciences declines to prepare the risk assessment or studies required by this subparagraph, the Administrator shall enter into a contract or cooperative agreement with another independent, scientific organization to prepare such assessments or studies.

"(C) HEALTH RISK REDUCTION AND COST ANALYSIS.—Not later than 30 months after the date of enactment of this paragraph, the Administrator shall publish, and seek public comment on, a health risk reduction and cost analysis meeting the requirements of paragraph (3)(C) for potential maximum contaminant levels that are being considered for radon in drinking water. The Administrator shall include a response to all significant public comments received on the analysis with the preamble for the proposed rule published under subparagraph (D).

"(D) PROPOSED REGULATION.—Not later than 36 months after the date of enactment of this paragraph, the Administrator shall propose a maximum contaminant level goal and a national primary drinking water regulation for radon pursuant to this section.

"(E) FINAL REGULATION.—Not later than 12 months after the date of the proposal under subparagraph (D), the Administrator shall publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for radon pursuant to this section based on the risk assessment prepared pursuant to subparagraph (B) and the health risk reduction and cost analysis published pursuant to subparagraph (C). In considering the risk assessment and the health risk reduction and cost analysis in connection with the promulgation of such a standard, the Administrator shall take into account the costs and benefits of control programs for radon from other sources.

"(F) ALTERNATIVE MAXIMUM CONTAMINANT LEVEL.—If the maximum contaminant level for radon in drinking water promulgated pursuant to subparagraph (E) is more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air, the Administrator shall, simultaneously with the promulgation of such level, promulgate an alternative maximum contaminant level for radon that would result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air. If the Administrator promulgates an alternative maximum contaminant level under this subparagraph, the Administrator shall, after notice and opportunity for public comment and in consultation with the States, publish guidelines for State programs, including criteria for multimedia measures to mitigate radon levels in indoor air, to be used by the States in preparing programs under subparagraph (G). The guidelines shall take into account data from existing radon mitigation programs and the assessment of mitigation measures prepared under subparagraph (B).

"(G) MULTIMEDIA RADON MITIGATION PROGRAMS.—

"(i) IN GENERAL.—A State may develop and submit a multimedia program to mitigate radon levels in indoor air for approval by the Administrator under this subparagraph. If, after notice and the opportunity for public comment, such program is approved by the Administrator, public water systems in the State may comply with the alternative maximum contaminant level promulgated under subparagraph (F) in lieu of the maximum contaminant level in the national primary drinking water regulation promulgated under subparagraph (E).

"(ii) ELEMENTS OF PROGRAMS.—State programs may rely on a variety of mitigation measures including public education, testing, training, technical assistance, remediation grant and loan or incentive programs, or other regulatory or nonregulatory measures. The effectiveness of elements in State programs shall be evaluated by the Administrator based on the assessment prepared by the National Academy of Sciences under subparagraph (B) and the guidelines published by the Administrator under subparagraph (F).

"(iii) APPROVAL.—The Administrator shall approve a State program submitted under this paragraph if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the State complied with the maximum contaminant level promulgated under subparagraph (E). The Administrator shall approve or disapprove a program submitted under this paragraph within 180 days of receipt. A program that is not disapproved during such period shall be deemed approved. A program that is disapproved may be modified to address the objections of the Administrator and be resubmitted for approval.

"(iv) REVIEW.—The Administrator shall periodically, but not less often than every 5 years, review each multimedia mitigation program approved under this subparagraph to determine whether it continues to meet the requirements of clause (iii) and shall, after written notice to the State and an opportunity for the State to correct any deficiency in the program, withdraw approval of programs that no longer comply with such requirements.

"(v) EXTENSION.—If, within 90 days after the promulgation of an alternative maximum contaminant level under subparagraph (F), the Governor of a State submits a letter to the Administrator committing to develop a multimedia mitigation program under this subparagraph, the effective date of the national primary drinking water regulation for radon in the State that would be applicable under paragraph (10) shall be extended for a period of 18 months.

"(vi) LOCAL PROGRAMS.—In the event that a State chooses not to submit a multimedia mitigation program for approval under this subparagraph or has submitted a program that has been disapproved, any public water system in the State may submit a program for approval by the Administrator according to the same criteria, conditions, and approval process that would apply to a State program. The Administrator shall approve a multimedia mitigation program if the health risk reduction benefits expected to be achieved by the program are equal to or greater than the health risk reduction benefits

that would result from compliance by the public water system with the maximum contaminant level for radon promulgated under subparagraph (E).".

SEC. 110. RECYCLING OF FILTER BACKWASH.

Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding the following new paragraph after paragraph (13):

"(14) RECYCLING OF FILTER BACKWASH.—The Administrator shall promulgate a regulation to govern the recycling of filter backwash water within the treatment process of a public water system. The Administrator shall promulgate such regulation not later than 4 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 unless such recycling has been addressed by the Administrator's Enhanced Surface Water Treatment Rule prior to such date.".

SEC. 111. TECHNOLOGY AND TREATMENT TECHNIQUES.

(a) VARIANCE TECHNOLOGIES.—Section 1412(b) (42 U.S.C. 300g–1(b)) is amended by adding the following new paragraph after paragraph (14):

"(15) VARIANCE TECHNOLOGIES.—

"(A) IN GENERAL.—At the same time as the Administrator promulgates a national primary drinking water regulation for a contaminant pursuant to this section, the Administrator shall issue guidance or regulations describing the best treatment technologies, treatment techniques, or other means (referred to in this paragraph as 'variance technology') for the contaminant that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available and affordable, as determined by the Administrator in consultation with the States, for public water systems of varying size, considering the quality of the source water to be treated. The Administrator shall identify such variance technologies for public water systems serving—

"(i) a population of 10,000 or fewer but more than 3,300;

"(ii) a population of 3,300 or fewer but more than 500; and

"(iii) a population of 500 or fewer but more than 25,

if, considering the quality of the source water to be treated, no treatment technology is listed for public water systems of that size under paragraph (4)(E). Variance technologies identified by the Administrator pursuant to this paragraph may not achieve compliance with the maximum contaminant level or treatment technique requirement of such regulation, but shall achieve the maximum reduction or inactivation efficiency that is affordable considering the size of the system and the quality of the source water. The guidance or regulations shall not require the use of a technology from a specific manufacturer or brand.

"(B) LIMITATION.—The Administrator shall not identify any variance technology under this paragraph, unless the Administrator has determined, considering the quality of the source water to be treated and the expected useful life of the technology, that the variance technology is protective of public health.

"(C) ADDITIONAL INFORMATION.—The Administrator shall include in the guidance or regulations identifying variance technologies under this paragraph any assumptions supporting the public health determination referred to in subparagraph (B), where such assumptions concern the public water system to which the technology may be applied, or its source waters. The Administrator shall provide any assumptions used in determining affordability, taking into consideration the number of persons served by such systems. The Administrator shall provide as much reliable information as practicable on performance, effectiveness, limitations, costs, and other relevant factors including the applicability of variance technology to waters from surface and underground sources.

"(D) REGULATIONS AND GUIDANCE.—Not later than 2 years after the date of enactment of this paragraph and after consultation with the States, the Administrator shall issue guidance or regulations under subparagraph (A) for each national primary drinking water regulation promulgated prior to the date of enactment of this paragraph for which a variance may be granted under section 1415(e). The Administrator may, at any time after a national primary drinking water regulation has been promulgated, issue guidance or regulations describing additional variance technologies. The Administrator shall, not less often than every 7 years, or upon receipt of a petition supported by substantial information, review variance technologies identified under this paragraph. The Administrator shall issue revised guidance or regulations if new or innovative variance technologies become available that meet the requirements of this paragraph and achieve an equal or greater reduction or inactivation efficiency than the variance technologies previously identified under this subparagraph. No public water system shall be required to replace a variance technology during the useful life of the technology for the sole reason that a more efficient variance technology has been listed under this subparagraph.".

(b) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—Section 1445 (42 U.S.C. 300j–4) is amended by adding the following new subsection after subsection (g):

"(h) AVAILABILITY OF INFORMATION ON SMALL SYSTEM TECHNOLOGIES.—For purposes of sections 1412(b)(4)(E) and 1415(e) (relating to small system variance program), the Administrator may request information on the characteristics of commercially available treatment systems and technologies, including the effectiveness and performance of the systems and technologies under various operating conditions. The Administrator may specify the form, content, and submission date of information to be submitted by manufacturers, States, and other interested persons for the purpose of considering the systems and technologies in the development of regulations or guidance under sections 1412(b)(4)(E) and 1415(e).".

SEC. 112. STATE PRIMACY.

(a) STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 1413 (42 U.S.C. 300g–2) is amended as follows:

(1) In subsection (a), by amending paragraph (1) to read as follows:

"(1) has adopted drinking water regulations that are no less stringent than the national primary drinking water regulations promulgated by the Administrator under subsections (a) and (b) of section 1412 not later than 2 years after the date on which the regulations are promulgated by the Administrator, except that the Administrator may provide for an extension of not more than 2 years if, after submission and review of appropriate, adequate documentation from the State, the Administrator determines that the extension is necessary and justified;".

(2) By adding at the end the following subsection:

"(c) INTERIM PRIMARY ENFORCEMENT AUTHORITY.—A State that has primary enforcement authority under this section with respect to each existing national primary drinking water regulation shall be considered to have primary enforcement authority with respect to each new or revised national primary drinking water regulation during the period beginning on the effective date of a regulation adopted and submitted by the State with respect to the new or revised national primary drinking water regulation in accordance with subsection (b)(1) and ending at such time as the Administrator makes a determination under subsection (b)(2)(B) with respect to the regulation.".

(b) EMERGENCY PLANS.—Section 1413(a)(5) (42 U.S.C. 300g–2(a)(5)) is amended by inserting after "emergency circumstances" the following: "including earthquakes, floods, hurricanes, and other natural disasters, as appropriate".

SEC. 113. ENFORCEMENT; JUDICIAL REVIEW.

(a) IN GENERAL.—Section 1414 (42 U.S.C. 300g–3) is amended as follows:

(1) In subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "any national primary drinking water regulation in effect under section 1412" and inserting "any applicable requirement"; and

(II) by striking "with such regulation or requirement" and inserting "with the requirement"; and

(ii) in subparagraph (B), by striking "regulation or" and inserting "applicable"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT IN NONPRIMACY STATES.—

"(A) IN GENERAL.—If, on the basis of information available to the Administrator, the Administrator finds, with respect to a period in which a State does not have primary enforcement responsibility for public water systems, that a public water system in the State—

"(i) for which a variance under section 1415 or an exemption under section 1416 is not in effect, does not comply with any applicable requirement; or

"(ii) for which a variance under section 1415 or an exemption under section 1416 is in effect, does not comply with any schedule or other requirement imposed pursuant to the variance or exemption;

the Administrator shall issue an order under subsection (g) requiring the public water system to comply with the requirement, or commence a civil action under subsection (b).

"(B) NOTICE.—If the Administrator takes any action pursuant to this paragraph, the Administrator shall notify an appropriate local elected official, if any, with jurisdiction over the public water system of the action prior to the time that the action is taken.".

(2) In the first sentence of subsection (b), by striking "a national primary drinking water regulation" and inserting "any applicable requirement".

(3) In subsection (g)—

(A) in paragraph (1), by striking "regulation, schedule, or other" each place it appears and inserting "applicable";

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking "effect until after notice and opportunity for public hearing and," and inserting "effect,"; and

(II) by striking "proposed order" and inserting "order"; and

(ii) in the second sentence, by striking "proposed to be"; and

(C) in paragraph (3)—

(i) by striking subparagraph (B) and inserting the following:

"(B) In a case in which a civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a public hearing (unless the person against whom the penalty is assessed requests a hearing on the record in accordance with section 554 of title 5, United States Code). In a case in which a civil penalty sought by the Administrator under this paragraph exceeds $5,000, but does not exceed $25,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code."; and

(ii) in subparagraph (C), by striking "paragraph exceeds $5,000" and inserting "subsection for a violation of an applicable requirement exceeds $25,000".

(4) By adding at the end the following:

"(h) CONSOLIDATION INCENTIVE.—

"(1) IN GENERAL.—An owner or operator of a public water system may submit to the State in which the system is located (if the State has primary enforcement responsibility under section 1413) or to the Administrator (if the State does not have primary enforcement responsibility) a plan (including specific measures and schedules) for—

"(A) the physical consolidation of the system with 1 or more other systems;

"(B) the consolidation of significant management and administrative functions of the system with 1 or more other systems; or

"(C) the transfer of ownership of the system that may reasonably be expected to improve drinking water quality.

"(2) CONSEQUENCES OF APPROVAL.—If the State or the Administrator approves a plan pursuant to paragraph (1), no enforcement action shall be taken pursuant to this part with respect to a specific violation identified in the approved plan prior to the date that is the earlier of the date on which consolidation is completed according to the plan or the date that is 2 years after the plan is approved.

"(i) DEFINITION OF APPLICABLE REQUIREMENT.—In this section, the term 'applicable requirement' means—

"(1) a requirement of section 1412, 1414, 1415, 1416, 1417, 1441, or 1445;

"(2) a regulation promulgated pursuant to a section referred to in paragraph (1);

"(3) a schedule or requirement imposed pursuant to a section referred to in paragraph (1); and

"(4) a requirement of, or permit issued under, an applicable State program for which the Administrator has made a determination that the requirements of section 1413 have been satisfied, or an applicable State program approved pursuant to this part.".

(b) STATE AUTHORITY FOR ADMINISTRATIVE PENALTIES.—Section 1413(a) (42 U.S.C. 300g-2(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

"(A) in the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

"(B) in the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.".

(c) JUDICIAL REVIEW.—Section 1448(a) (42 U.S.C. 300j-7(a)) is amended—

(1) in paragraph (2) of the first sentence, by inserting "final" after "any other";

(2) in the second sentence, by striking "or issuance of the order" and inserting "or any other final Agency action"; and

(3) by adding at the end the following "In any petition concerning the assessment of a civil penalty pursuant to section 1414(g)(3)(B), the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.".

(d) EMERGENCY POWERS.—Section 1431(b) (42 U.S.C. 300i(b)) is amended by striking "$5,000" and inserting "$15,000".

SEC. 114. PUBLIC NOTIFICATION.

(a) PUBLIC WATER SYSTEMS.—Section 1414(c) (42 U.S.C. 300g-3(c)) is amended to read as follows:

"(c) NOTICE TO PERSONS SERVED.—

"(1) IN GENERAL.—Each owner or operator of a public water system shall give notice of each of the following to the persons served by the system:

"(A) Notice of any failure on the part of the public water system to—

"(i) comply with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a national primary drinking water regulation; or

"(ii) perform monitoring required by section 1445(a).

"(B) If the public water system is subject to a variance granted under subsection (a)(1)(A), (a)(2), or (e) of section 1415 for an inability to meet a maximum contaminant level requirement or is subject to an exemption granted under section 1416, notice of—

"(i) the existence of the variance or exemption; and

"(ii) any failure to comply with the requirements of any schedule prescribed pursuant to the variance or exemption.

"(C) Notice of the concentration level of any unregulated contaminant for which the Administrator has required public notice pursuant to paragraph (2)(E).

"(2) FORM, MANNER, AND FREQUENCY OF NOTICE.—

"(A) IN GENERAL.—The Administrator shall, by regulation, and after consultation with the States, prescribe the manner, frequency, form, and content for giving notice under this subsection. The regulations shall—

"(i) provide for different frequencies of notice based on the differences between violations that are intermittent or infrequent and violations that are continuous or frequent; and

"(ii) take into account the seriousness of any potential adverse health effects that may be involved.

"(B) STATE REQUIREMENTS.—

"(i) IN GENERAL.—A State may, by rule, establish alternative notification requirements—

"(I) with respect to the form and content of notice given under and in a manner in accordance with subparagraph (C); and

"(II) with respect to the form and content of notice given under subparagraph (D).

"(ii) CONTENTS.—The alternative requirements shall provide the same type and amount of information as required pursuant to this subsection and regulations issued under subparagraph (A).

"(iii) RELATIONSHIP TO SECTION 1413.—Nothing in this subparagraph shall be construed or applied to modify the requirements of section 1413.

"(C) VIOLATIONS WITH POTENTIAL TO HAVE SERIOUS ADVERSE EFFECTS ON HUMAN HEALTH.—Regulations issued under subparagraph (A) shall specify notification procedures for each violation by a public water system that has the potential to have serious adverse effects on human health as a result of short-term exposure. Each notice of violation provided under this subparagraph shall—

"(i) be distributed as soon as practicable after the occurrence of the violation, but not later than 24 hours after the occurrence of the violation;

"(ii) provide a clear and readily understandable explanation of—

"(I) the violation;

"(II) the potential adverse effects on human health;

"(III) the steps that the public water system is taking to correct the violation; and

"(IV) the necessity of seeking alternative water supplies until the violation is corrected;

"(iii) be provided to the Administrator or the head of the State agency that has primary enforcement responsibility under section 1413 as soon as practicable, but not later than 24 hours after the occurrence of the violation; and

"(iv) as required by the State agency in general regulations of the State agency, or on a case-by-case basis after the consultation referred to in clause (iii), considering the health risks involved—

"(I) be provided to appropriate broadcast media;

"(II) be prominently published in a newspaper of general circulation serving the area not later than 1 day after distribution of a notice pursuant to clause (i) or the date of publication of the next issue of the newspaper; or

"(III) be provided by posting or door-to-door notification in lieu of notification by means of broadcast media or newspaper.

"(D) WRITTEN NOTICE.—

"(i) IN GENERAL.—Regulations issued under subparagraph (A) shall specify notification procedures for violations other than the violations covered by subparagraph (C). The procedures shall specify that a public water system shall provide written notice to each person served by the system by notice (I) in the first bill (if any) prepared after the date of occurrence of the violation, (II) in an annual report issued not later than 1 year after the date of occurrence of the violation, or (III) by mail or direct delivery as soon as practicable, but not later than 1 year after the date of occurrence of the violation.

"(ii) FORM AND MANNER OF NOTICE.—The Administrator shall prescribe the form and manner of the notice to provide a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps that the system is taking to seek alternative water supplies, if any, until the violation is corrected.

"(E) UNREGULATED CONTAMINANTS.—The Administrator may require the owner or operator of a public water system to give notice to the persons served by the system of the concentration levels of an unregulated contaminant required to be monitored under section 1445(a).

"(3) REPORTS.—

"(A) ANNUAL REPORT BY STATE.—

"(i) IN GENERAL.—Not later than January 1, 1998, and annually thereafter, each State that has primary enforcement responsibility under section 1413 shall prepare, make readily available to the public, and submit to the Administrator an annual report on violations of national primary drinking water regulations by public water systems in the State, including violations with respect to (I) maximum contaminant levels, (II) treatment requirements, (III) variances and exemptions, and (IV) monitoring requirements determined to be significant by the Administrator after consultation with the States.

"(ii) DISTRIBUTION.—The State shall publish and distribute summaries of the report and indicate where the full report is available for review.

"(B) ANNUAL REPORT BY ADMINISTRATOR.—Not later than July 1, 1998, and annually thereafter, the Administrator shall prepare and make available to the public an annual report summarizing and evaluating reports submitted by States pursuant to subparagraph (A) and notices submitted by public water systems serving Indian Tribes provided to the Administrator

pursuant to subparagraph (C) or (D) of paragraph (2) and making recommendations concerning the resources needed to improve compliance with this title. The report shall include information about public water system compliance on Indian reservations and about enforcement activities undertaken and financial assistance provided by the Administrator on Indian reservations, and shall make specific recommendations concerning the resources needed to improve compliance with this title on Indian reservations.

"(4) CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.—

"(A) ANNUAL REPORTS TO CONSUMERS.—The Administrator, in consultation with public water systems, environmental groups, public interest groups, risk communication experts, and the States, and other interested parties, shall issue regulations within 24 months after the date of enactment of this paragraph to require each community water system to mail to each customer of the system at least once annually a report on the level of contaminants in the drinking water purveyed by that system (referred to in this paragraph as a 'consumer confidence report'). Such regulations shall provide a brief and plainly worded definition of the terms 'maximum contaminant level goal', 'maximum contaminant level', 'variances', and 'exemptions' and brief statements in plain language regarding the health concerns that resulted in regulation of each regulated contaminant. The regulations shall also include a brief and plainly worded explanation regarding contaminants that may reasonably be expected to be present in drinking water, including bottled water. The regulations shall also provide for an Environmental Protection Agency toll-free hotline that consumers can call for more information and explanation.

"(B) CONTENTS OF REPORT.—The consumer confidence reports under this paragraph shall include, but not be limited to, each of the following:

"(i) Information on the source of the water purveyed.

"(ii) A brief and plainly worded definition of the terms 'maximum contaminant level goal', 'maximum contaminant level', 'variances', and 'exemptions' as provided in the regulations of the Administrator.

"(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement setting forth (I) the maximum contaminant level goal, (II) the maximum contaminant level, (III) the level of such contaminant in such water system, and (IV) for any regulated contaminant for which there has been a violation of the maximum contaminant level during the year concerned, the brief statement in plain language regarding the health concerns that resulted in regulation of such contaminant, as provided by the Administrator in regulations under subparagraph (A).

"(iv) Information on compliance with national primary drinking water regulations, as required by the Administrator, and notice if the system is operating under a variance or exemption and the basis on which the variance or exemption was granted.

"(v) Information on the levels of unregulated contaminants for which monitoring is required under section 1445(a)(2) (including levels of cryptosporidium and radon where States determine they may be found).

"(vi) A statement that the presence of contaminants in drinking water does not necessarily indicate that the drinking water poses a health risk and that more information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency hotline.

A public water system may include such additional information as it deems appropriate for public education. The Administrator may, for not more than 3 regulated contaminants other than those referred to in subclause (IV) of clause (iii), require a consumer confidence report under this paragraph to include the brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant or contaminants concerned, as provided by the Administrator in regulations under subparagraph (A).

"(C) COVERAGE.—The Governor of a State may determine not to apply the mailing requirement of subparagraph (A) to a community water system serving fewer than 10,000 persons. Any such system shall—

"(i) inform, in the newspaper notice required by clause (iii) or by other means, its customers that the system will not be mailing the report as required by subparagraph (A);

"(ii) make the consumer confidence report available upon request to the public; and

"(iii) publish the report referred to in subparagraph (A) annually in one or more local newspapers serving the area in which customers of the system are located.

"(D) ALTERNATIVE TO PUBLICATION.—For any community water system which, pursuant to subparagraph (C), is not required to meet the mailing requirement of subparagraph (A) and which serves 500 persons or fewer, the community water system may elect not to comply with clause (i) or (iii) of subparagraph (C). If the community water system so elects, the system shall, at a minimum—

"(i) prepare an annual consumer confidence report pursuant to subparagraph (B); and

"(ii) provide notice at least once per year to each of its customers by mail, by door-to-door delivery, by posting or by other means authorized by the regulations of the Administrator that the consumer confidence report is available upon request.

"(E) ALTERNATIVE FORM AND CONTENT.—A State exercising primary enforcement responsibility may establish, by rule, after notice and public comment, alternative requirements with respect to the form and content of consumer confidence reports under this paragraph.".

(b) BOTTLED WATER STUDY.—Not later than 18 months after the date of enactment of this Act, the Administrator of the Food and Drug Administration, in consultation with the Administrator of the Environmental Protection Agency, shall publish for public notice and comment a draft study on the feasibility of appropriate methods, if any, of informing customers of the contents of bottled water. The Administrator of the Food and Drug Administration shall publish a final study not later than 30 months after the date of enactment of this Act.

SEC. 115. VARIANCES.

The second sentence of section 1415(a)(1)(A) (42 U.S.C. 300g–4(a)(1)(A)) is amended—

(1) by striking "only be issued to a system after the system's application of" and inserting "be issued to a system on condition that the system install"; and

(2) by inserting before the period at the end the following: ", and based upon an evaluation satisfactory to the State that indicates that alternative sources of water are not reasonably available to the system".

SEC. 116. SMALL SYSTEMS VARIANCES.

(a) SMALL SYSTEM VARIANCES.—Section 1415 (42 U.S.C. 300g–4) is amended by adding at the end the following:

"(e) SMALL SYSTEM VARIANCES.—

"(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems under section 1413 (or the Administrator in nonprimacy States) may grant a variance under this subsection for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a national primary drinking water regulation to—

"(A) public water systems serving 3,300 or fewer persons; and

"(B) with the approval of the Administrator pursuant to paragraph (9), public water systems serving more than 3,300 persons but fewer than 10,000 persons,

if the variance meets each requirement of this subsection.

"(2) AVAILABILITY OF VARIANCES.—A public water system may receive a variance pursuant to paragraph (1), if—

"(A) the Administrator has identified a variance technology under section 1412(b)(15) that is applicable to the size and source water quality conditions of the public water system;

"(B) the public water system installs, operates, and maintains, in accordance with guidance or regulations issued by the Administrator, such treatment technology, treatment technique, or other means; and

"(C) the State in which the system is located determines that the conditions of paragraph (3) are met.

"(3) CONDITIONS FOR GRANTING VARIANCES.—A variance under this subsection shall be available only to a system—

"(A) that cannot afford to comply, in accordance with affordability criteria established by the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413), with a national primary drinking water regulation, including compliance through—

"(i) treatment;

"(ii) alternative source of water supply; or

"(iii) restructuring or consolidation (unless the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) makes a written determination that restructuring or consolidation is not practicable); and

"(B) for which the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) determines that the terms of the variance ensure adequate protection of human health, considering the quality of the source water for the system and the removal efficiencies and expected useful life of the treatment technology required by the variance.

"(4) COMPLIANCE SCHEDULES.—A variance granted under this subsection shall require compliance with the conditions of the variance not later than 3 years after the date on which the variance is granted, except that the Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) may allow up to 2 additional years to comply with a variance technology, secure an alternative source of water, restructure or consolidate if the Administrator (or the State) determines that additional time is necessary for capital improvements, or to allow for financial assistance provided pursuant to section 1452 or any other Federal or State program.

"(5) DURATION OF VARIANCES.—The Administrator (or the State in the case of a State that has primary enforcement responsibility under section 1413) shall review each variance granted under this subsection not less often than every 5 years after the compliance date established in the variance to determine whether the system remains eligible for the variance and is conforming to each condition of the variance.

"(6) INELIGIBILITY FOR VARIANCES.—A variance shall not be available under this subsection for—

"(A) any maximum contaminant level or treatment technique for a contaminant with respect to which a national primary drinking water regulation was promulgated prior to January 1, 1986; or

"(B) a national primary drinking water regulation for a microbial contaminant (including a

bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant.

"(7) REGULATIONS AND GUIDANCE.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and in consultation with the States, the Administrator shall promulgate regulations for variances to be granted under this subsection. The regulations shall, at a minimum, specify—

"(i) procedures to be used by the Administrator or a State to grant or deny variances, including requirements for notifying the Administrator and consumers of the public water system that a variance is proposed to be granted (including information regarding the contaminant and variance) and requirements for a public hearing on the variance before the variance is granted;

"(ii) requirements for the installation and proper operation of variance technology that is identified (pursuant to section 1412(b)(15)) for small systems and the financial and technical capability to operate the treatment system, including operator training and certification;

"(iii) eligibility criteria for a variance for each national primary drinking water regulation, including requirements for the quality of the source water (pursuant to section 1412(b)(15)(A)); and

"(iv) information requirements for variance applications.

"(B) AFFORDABILITY CRITERIA.—Not later than 18 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator, in consultation with the States and the Rural Utilities Service of the Department of Agriculture, shall publish information to assist the States in developing affordability criteria. The affordability criteria shall be reviewed by the States not less often than every 5 years to determine if changes are needed to the criteria.

"(8) REVIEW BY THE ADMINISTRATOR.—

"(A) IN GENERAL.—The Administrator shall periodically review the program of each State that has primary enforcement responsibility for public water systems under section 1413 with respect to variances to determine whether the variances granted by the State comply with the requirements of this subsection. With respect to affordability, the determination of the Administrator shall be limited to whether the variances granted by the State comply with the affordability criteria developed by the State.

"(B) NOTICE AND PUBLICATION.—If the Administrator determines that variances granted by a State are not in compliance with affordability criteria developed by the State and the requirements of this subsection, the Administrator shall notify the State in writing of the deficiencies and make public the determination.

"(9) APPROVAL OF VARIANCES.—A State proposing to grant a variance under this subsection to a public water system serving more than 3,300 and fewer than 10,000 persons shall submit the variance to the Administrator for review and approval prior to the issuance of the variance. The Administrator shall approve the variance if it meets each of the requirements of this subsection. The Administrator shall approve or disapprove the variance within 90 days. If the Administrator disapproves a variance under this paragraph, the Administrator shall notify the State in writing of the reasons for disapproval and the variance may be resubmitted with modifications to address the objections stated by the Administrator.

"(10) OBJECTIONS TO VARIANCES.—

"(A) BY THE ADMINISTRATOR.—The Administrator may review and object to any variance proposed to be granted by a State, if the objection is communicated to the State not later than 90 days after the State proposes to grant the variance. If the Administrator objects to the granting of a variance, the Administrator shall notify the State in writing of each basis for the objection and propose a modification to the variance to resolve the concerns of the Administrator. The State shall make the recommended modification or respond in writing to each objection. If the State issues the variance without resolving the concerns of the Administrator, the Administrator may overturn the State decision to grant the variance if the Administrator determines that the State decision does not comply with this subsection.

"(B) PETITION BY CONSUMERS.—Not later than 30 days after a State exercising primary enforcement responsibility for public water systems under section 1413 proposes to grant a variance for a public water system, any person served by the system may petition the Administrator to object to the granting of a variance. The Administrator shall respond to the petition and determine whether to object to the variance under subparagraph (A) not later than 60 days after the receipt of the petition.

"(C) TIMING.—No variance shall be granted by a State until the later of the following:

"(i) 90 days after the State proposes to grant a variance.

"(ii) If the Administrator objects to the variance, the date on which the State makes the recommended modifications or responds in writing to each objection.".

SEC. 117. EXEMPTIONS.

(a) IN GENERAL.—Section 1416 (42 U.S.C. 300g–5) is amended as follows:

(1) In subsection (a)(1)—

(A) by inserting after "(which may include economic factors" the following: ", including qualification of the public water system as a system serving a disadvantaged community pursuant to section 1452(d)"; and

(B) by inserting after "treatment technique requirement," the following: "or to implement measures to develop an alternative source of water supply,".

(2) In subsection (a), by striking "and" at the end of paragraph (2), striking the period at the end of paragraph (3) and inserting "; and" and by adding the following at the end thereof:

"(4) management or restructuring changes (or both) cannot reasonably be made that will result in compliance with this title or, if compliance cannot be achieved, improve the quality of the drinking water.".

(3) In subsection (b)(1)(A)—

(A) by striking "(including increments of progress)" and inserting "(including increments of progress or measures to develop an alternative source of water supply)"; and

(B) by striking "requirement and treatment" and inserting "requirement or treatment".

(4) In subsection (b)(2)—

(A) by striking "(except as provided in subparagraph (B))" in subparagraph (A) and all that follows through "3 years after the date of the issuance of the exemption if" in subparagraph (B) and inserting the following: "not later than 3 years after the otherwise applicable compliance date established in section 1412(b)(10).

"(B) No exemption shall be granted unless";

(B) in subparagraph (B)(i), by striking "within the period of such exemption" and inserting "prior to the date established pursuant to section 1412(b)(10)";

(C) in subparagraph (B)(ii), by inserting after "such financial assistance" the following: "or assistance pursuant to section 1452, or any other Federal or State program is reasonably likely to be available within the period of the exemption";

(D) in subparagraph (C)—

(i) by striking "500 service connections" and inserting "a population of 3,300"; and

(ii) by inserting ", but not to exceed a total of 6 years," after "for one or more additional 2-year periods"; and

(E) by adding at the end the following:

"(D) LIMITATION.—A public water system may not receive an exemption under this section if the system was granted a variance under section 1415(e).".

(b) LIMITED ADDITIONAL COMPLIANCE PERIOD.—(1) The State of New York, on a case-by-case basis and after notice and an opportunity of at least 60 days for public comment, may allow an additional period for compliance with the Surface Water Treatment Rule established pursuant to section 1412(b)(7)(C) of the Safe Drinking Water Act in the case of unfiltered systems in Essex, Columbia, Greene, Dutchess, Rensselaer, Schoharie, Saratoga, Washington, and Warren Counties serving a population of less than 5,000, which meet appropriate disinfection requirements and have adequate watershed protections, so long as the State determines that the public health will be protected during the duration of the additional compliance period and the system agrees to implement appropriate control measures as determined by the State.

(2) The additional compliance period referred to in paragraph (1) shall expire on the earlier of the date 3 years after the date on which the Administrator identifies appropriate control technology for the Surface Water Treatment Rule for public water systems in the category that includes such system pursuant to section 1412(b)(4)(E) of the Safe Drinking Water Act or 5 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996.

SEC. 118. LEAD PLUMBING AND PIPES.

Section 1417 (42 U.S.C. 300g–6) is amended as follows:

(1) In subsection (a), by striking paragraph (1) and inserting the following:

"(1) PROHIBITIONS.—

"(A) IN GENERAL.—No person may use any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux, after June 19, 1986, in the installation or repair of—

"(i) any public water system; or

"(ii) any plumbing in a residential or nonresidential facility providing water for human consumption,

that is not lead free (within the meaning of subsection (d)).

"(B) LEADED JOINTS.—Subparagraph (A) shall not apply to leaded joints necessary for the repair of cast iron pipes.".

(2) In subsection (a)(2)(A), by inserting "owner or operator of a" after "Each".

(3) By adding at the end of subsection (a) the following:

"(3) UNLAWFUL ACTS.—Effective 2 years after the date of enactment of this paragraph, it shall be unlawful—

"(A) for any person to introduce into commerce any pipe, or any pipe or plumbing fitting or fixture, that is not lead free, except for a pipe that is used in manufacturing or industrial processing;

"(B) for any person engaged in the business of selling plumbing supplies, except manufacturers, to sell solder or flux that is not lead free; or

"(C) for any person to introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.".

(4) In subsection (d)—

(A) by striking "lead, and" in paragraph (1) and inserting "lead;";

(B) by striking "lead." in paragraph (2) and inserting "lead; and"; and

(C) by adding at the end the following:

"(3) when used with respect to plumbing fittings and fixtures, refers to plumbing fittings

and fixtures in compliance with standards established in accordance with subsection (e).".

(5) By adding at the end the following:

"(e) PLUMBING FITTINGS AND FIXTURES.—

"(1) IN GENERAL.—The Administrator shall provide accurate and timely technical information and assistance to qualified third-party certifiers in the development of voluntary standards and testing protocols for the leaching of lead from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion.

"(2) STANDARDS.—

"(A) IN GENERAL.—If a voluntary standard for the leaching of lead is not established by the date that is 1 year after the date of enactment of this subsection, the Administrator shall, not later than 2 years after the date of enactment of this subsection, promulgate regulations setting a health-effects-based performance standard establishing maximum leaching levels from new plumbing fittings and fixtures that are intended by the manufacturer to dispense water for human ingestion. The standard shall become effective on the date that is 5 years after the date of promulgation of the standard.

"(B) ALTERNATIVE REQUIREMENT.—If regulations are required to be promulgated under subparagraph (A) and have not been promulgated by the date that is 5 years after the date of enactment of this subsection, no person may import, manufacture, process, or distribute in commerce a new plumbing fitting or fixture, intended by the manufacturer to dispense water for human ingestion, that contains more than 4 percent lead by dry weight.".

SEC. 119. CAPACITY DEVELOPMENT.

Part B (42 U.S.C. 300g et seq.) is amended by adding after section 1419 the following:

"CAPACITY DEVELOPMENT

"SEC. 1420. (a) STATE AUTHORITY FOR NEW SYSTEMS.—A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

"(b) SYSTEMS IN SIGNIFICANT NONCOMPLIANCE.—

"(1) LIST.—Beginning not later than 1 year after the date of enactment of this section, each State shall prepare, periodically update, and submit to the Administrator a list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance with this title (as defined in guidelines issued prior to the date of enactment of this section or any revisions of the guidelines that have been made in consultation with the States) and, to the extent practicable, the reasons for noncompliance.

"(2) REPORT.—Not later than 5 years after the date of enactment of this section and as part of the capacity development strategy of the State, each State shall report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in assisting the public water systems listed under paragraph (1) to improve technical, managerial, and financial capacity.

"(3) WITHHOLDING.—The list and report under this subsection shall be considered part of the capacity development strategy of the State required under subsection (c) of this section for purposes of the withholding requirements of section 1452(a)(1)(G)(i) (relating to State loan funds).

"(c) CAPACITY DEVELOPMENT STRATEGY.—

"(1) IN GENERAL.—Beginning 4 years after the date of enactment of this section, a State shall receive only—

"(A) 90 percent in fiscal year 2001;

"(B) 85 percent in fiscal year 2002; and

"(C) 80 percent in each subsequent fiscal year, of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

"(2) CONTENT.—In preparing the capacity development strategy, the State shall consider, solicit public comment on, and include as appropriate—

"(A) the methods or criteria that the State will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

"(B) a description of the institutional, regulatory, financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development;

"(C) a description of how the State will use the authorities and resources of this title or other means to—

"(i) assist public water systems in complying with national primary drinking water regulations;

"(ii) encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

"(iii) assist public water systems in the training and certification of operators;

"(D) a description of how the State will establish a baseline and measure improvements in capacity with respect to national primary drinking water regulations and State drinking water law; and

"(E) an identification of the persons that have an interest in and are involved in the development and implementation of the capacity development strategy (including all appropriate agencies of Federal, State, and local governments, private and nonprofit public water systems, and public water system customers).

"(3) REPORT.—Not later than 2 years after the date on which a State first adopts a capacity development strategy under this subsection, and every 3 years thereafter, the head of the State agency that has primary responsibility to carry out this title in the State shall submit to the Governor a report that shall also be available to the public on the efficacy of the strategy and progress made toward improving the technical, managerial, and financial capacity of public water systems in the State.

"(4) REVIEW.—The decisions of the State under this section regarding any particular public water system are not subject to review by the Administrator and may not serve as the basis for withholding funds under section 1452.

"(d) FEDERAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator shall support the States in developing capacity development strategies.

"(2) INFORMATIONAL ASSISTANCE.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator shall—

"(i) conduct a review of State capacity development efforts in existence on the date of enactment of this section and publish information to assist States and public water systems in capacity development efforts; and

"(ii) initiate a partnership with States, public water systems, and the public to develop information for States on recommended operator certification requirements.

"(B) PUBLICATION OF INFORMATION.—The Administrator shall publish the information developed through the partnership under subparagraph (A)(ii) not later than 18 months after the date of enactment of this section.

"(3) PROMULGATION OF DRINKING WATER REGULATIONS.—In promulgating a national primary drinking water regulation, the Administrator shall include an analysis of the likely effect of compliance with the regulation on the technical, financial, and managerial capacity of public water systems.

"(4) GUIDANCE FOR NEW SYSTEMS.—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

"(e) VARIANCES AND EXEMPTIONS.—Based on information obtained under subsection (c)(3), the Administrator shall, as appropriate, modify regulations concerning variances and exemptions for small public water systems to ensure flexibility in the use of the variances and exemptions. Nothing in this subsection shall be interpreted, construed, or applied to affect or alter the requirements of section 1415 or 1416.

"(f) SMALL PUBLIC WATER SYSTEMS TECHNOLOGY ASSISTANCE CENTERS.—

"(1) GRANT PROGRAM.—The Administrator is authorized to make grants to institutions of higher learning to establish and operate small public water system technology assistance centers in the United States.

"(2) RESPONSIBILITIES OF THE CENTERS.—The responsibilities of the small public water system technology assistance centers established under this subsection shall include the conduct of training and technical assistance relating to the information, performance, and technical needs of small public water systems or public water systems that serve Indian Tribes.

"(3) APPLICATIONS.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The small public water system technology assistance center shall be located in a State that is representative of the needs of the region in which the State is located for addressing the drinking water needs of small and rural communities or Indian Tribes.

"(B) The grant recipient shall be located in a region that has experienced problems, or may reasonably be foreseen to experience problems, with small and rural public water systems.

"(C) The grant recipient shall have access to expertise in small public water system technology management.

"(D) The grant recipient shall have the capability to disseminate the results of small public water system technology and training programs.

"(E) The projects that the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(F) The grant recipient has regional support beyond the host institution.

"(5) CONSORTIA OF STATES.—At least 2 of the grants under this subsection shall be made to consortia of States with low population densities.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this subsection $2,000,000 for each of the fiscal years 1997 through 1999, and $5,000,000 for each of the fiscal years 2000 through 2003.

"(g) ENVIRONMENTAL FINANCE CENTERS.—

"(1) IN GENERAL.—The Administrator shall provide initial funding for one or more university-based environmental finance centers for activities that provide technical assistance to State and local officials in developing the capacity of public water systems. Any such funds shall be used only for activities that are directly related to this title.

"(2) NATIONAL CAPACITY DEVELOPMENT CLEARINGHOUSE.—The Administrator shall establish a national public water system capacity development clearinghouse to receive and disseminate information with respect to developing, improving, and maintaining financial and managerial capacity at public water systems. The Administrator shall ensure that the clearinghouse does not duplicate other federally supported clearinghouse activities.

"(3) CAPACITY DEVELOPMENT TECHNIQUES.—The Administrator may request an environmental finance center funded under paragraph (1) to develop and test managerial, financial, and institutional techniques for capacity development. The techniques may include capacity assessment methodologies, manual and computer based public water system rate models and capital planning models, public water system consolidation procedures, and regionalization models.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,500,000 for each of the fiscal years 1997 through 2003.

"(5) LIMITATION.—No portion of any funds made available under this subsection may be used for lobbying expenses.".

SEC. 120. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN GROUND WATER PROGRAMS.

(a) CRITICAL AQUIFER PROTECTION.—Section 1427 (42 U.S.C. 300h–6) is amended as follows:

(1) Subsection (b)(1) is amended by striking "not later than 24 months after the enactment of the Safe Drinking Water Act Amendments of 1986".

(2) The table in subsection (m) is amended by adding at the end the following:

"1992–2003 ..... 15,000,000.".

(b) WELLHEAD PROTECTION AREAS.—The table in section 1428(k) (42 U.S.C. 300h–7(k)) is amended by adding at the end the following:

"1992–2003 ..... 30,000,000.".

(c) UNDERGROUND INJECTION CONTROL GRANT.—The table in section 1443(b)(5) (42 U.S.C. 300j–2(b)(5)) is amended by adding at the end the following:

"1992–2003 ..... 15,000,000.".

SEC. 121. AMENDMENTS TO SECTION 1442.

Section 1442 (42 U.S.C. 300j–1) is amended—

(1) by redesignating paragraph (3) of subsection (b) as paragraph (3) of subsection (d) and moving such paragraph to appear after paragraph (2) of subsection (d);

(2) by striking subsection (b) (as so amended);

(3) by redesignating subparagraph (B) of subsection (a)(2) as subsection (b) and moving such subsection to appear after subsection (a);

(4) in subsection (a)—

(A) by striking paragraph (2) (as so amended) and inserting the following:

"(2) INFORMATION AND RESEARCH FACILITIES.—In carrying out this title, the Administrator is authorized to—

"(A) collect and make available information pertaining to research, investigations, and demonstrations with respect to providing a dependably safe supply of drinking water, together with appropriate recommendations in connection with the information; and

"(B) make available research facilities of the Agency to appropriate public authorities, institutions, and individuals engaged in studies and research relating to this title.";

(B) by striking paragraph (3); and

(C) by redesignating paragraph (11) as paragraph (3) and moving such paragraph to appear before paragraph (4).

SEC. 122. TECHNICAL ASSISTANCE.

Section 1442(e) (42 U.S.C. 300j–1(e)) is amended to read as follows:

"(e) TECHNICAL ASSISTANCE.—The Administrator may provide technical assistance to small public water systems to enable such systems to achieve and maintain compliance with applicable national primary drinking water regulations. Such assistance may include circuit-rider and multi-State regional technical assistance programs, training, and preliminary engineering evaluations. The Administrator shall ensure that technical assistance pursuant to this subsection is available in each State. Each nonprofit organization receiving assistance under this subsection shall consult with the State in which the assistance is to be expended or otherwise made available before using assistance to undertake activities to carry out this subsection. There are authorized to be appropriated to the Administrator to be used for such technical assistance $15,000,000 for each of the fiscal years 1997 through 2003. No portion of any State loan fund established under section 1452 (relating to State loan funds) and no portion of any funds made available under this subsection may be used for lobbying expenses. Of the total amount appropriated under this subsection, 3 percent shall be used for technical assistance to public water systems owned or operated by Indian Tribes.".

SEC. 123. OPERATOR CERTIFICATION.

Part B (42 U.S.C. 300g et seq.) is amended by adding the following after section 1418:

"OPERATOR CERTIFICATION

"SEC. 1419. (a) GUIDELINES.—Not later than 30 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and in cooperation with the States, the Administrator shall publish guidelines in the Federal Register, after notice and opportunity for comment from interested persons, including States and public water systems, specifying minimum standards for certification (and recertification) of the operators of community and nontransient noncommunity public water systems. Such guidelines shall take into account existing State programs, the complexity of the system, and other factors aimed at providing an effective program at reasonable cost to States and public water systems, taking into account the size of the system.

"(b) STATE PROGRAMS.—Beginning 2 years after the date on which the Administrator publishes guidelines under subsection (a), the Administrator shall withhold 20 percent of the funds a State is otherwise entitled to receive under section 1452 unless the State has adopted and is implementing a program for the certification of operators of community and nontransient noncommunity public water systems that meets the requirements of the guidelines published pursuant to subsection (a) or that has been submitted in compliance with subsection (c) and that has not been disapproved.

"(c) EXISTING PROGRAMS.—For any State exercising primary enforcement responsibility for public water systems or any other State which has an operator certification program, the guidelines under subsection (a) shall allow the State to enforce such program in lieu of the guidelines under subsection (a) if the State submits the program to the Administrator within 18 months after the publication of the guidelines unless the Administrator determines (within 9 months after the State submits the program to the Administrator) that such program is not substantially equivalent to such guidelines. In making this determination, an existing State program shall be presumed to be substantially equivalent to the guidelines, notwithstanding program differences, based on the size of systems or the quality of source water, providing the State program meets the overall public health objectives of the guidelines. If disapproved, the program may be resubmitted within 6 months after receipt of notice of disapproval.

"(d) EXPENSE REIMBURSEMENT.—

"(1) IN GENERAL.—The Administrator shall provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to this section.

"(2) STATE GRANTS.—The reimbursement shall be provided through grants to States with each State receiving an amount sufficient to cover the reasonable costs for training all such operators in the State, as determined by the Administrator, to the extent required by this section. Grants received by a State pursuant to this paragraph shall first be used to provide reimbursement for training and certification costs of persons operating systems serving 3,300 persons or fewer. If a State has reimbursed all such costs, the State may, after notice to the Administrator, use any remaining funds from the grant for any of the other purposes authorized for grants under section 1452.

"(3) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to provide grants for reimbursement under this section $30,000,000 for each of fiscal years 1997 through 2003.

"(4) RESERVATION.—If the appropriation made pursuant to paragraph (3) for any fiscal year is not sufficient to satisfy the requirements of paragraph (1), the Administrator shall, prior to any other allocation or reservation, reserve such sums as necessary from the funds appropriated pursuant to section 1452(m) to provide reimbursement for the training and certification costs mandated by this subsection.".

SEC. 124. PUBLIC WATER SYSTEM SUPERVISION PROGRAM.

Section 1443(a) (42 U.S.C. 300j–2(a)) is amended as follows:

(1) Paragraph (7) is amended to read as follows:

"(7) AUTHORIZATION.—For the purpose of making grants under paragraph (1), there are authorized to be appropriated $100,000,000 for each of fiscal years 1997 through 2003.".

(2) By adding at the end the following:

"(8) RESERVATION OF FUNDS BY THE ADMINISTRATOR.—If the Administrator assumes the primary enforcement responsibility of a State public water system supervision program, the Administrator may reserve from funds made available pursuant to this subsection an amount equal to the amount that would otherwise have been provided to the State pursuant to this subsection. The Administrator shall use the funds reserved pursuant to this paragraph to ensure the full and effective administration of a public water system supervision program in the State.

"(9) STATE LOAN FUNDS.—

"(A) RESERVATION OF FUNDS.—For any fiscal year for which the amount made available to the Administrator by appropriations to carry out this subsection is less than the amount that the Administrator determines is necessary to supplement funds made available pursuant to paragraph (8) to ensure the full and effective administration of a public water system supervision program in a State, the Administrator may reserve from the funds made available to the State under section 1452 (relating to State loan funds) an amount that is equal to the amount of the shortfall. This paragraph shall not apply to any State not exercising primary

enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(B) DUTY OF ADMINISTRATOR.—If the Administrator reserves funds from the allocation of a State under subparagraph (A), the Administrator shall carry out in the State each of the activities that would be required of the State if the State had primary enforcement authority under section 1413.".

SEC. 125. MONITORING AND INFORMATION GATHERING.

(a) REVIEW OF EXISTING REQUIREMENTS.—Paragraph (1) of section 1445(a) (42 U.S.C. 300j-4(a)(1)) is amended to read as follows:

"(1)(A) Every person who is subject to any requirement of this title or who is a grantee, shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist the Administrator in establishing regulations under this title, in determining whether such person has acted or is acting in compliance with this title, in administering any program of financial assistance under this title, in evaluating the health risks of unregulated contaminants, or in advising the public of such risks. In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.

"(B) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require, after consultation with the State in which such person is located if such State has primary enforcement responsibility for public water systems, on a case-by-case basis, to determine whether such person has acted or is acting in compliance with this title.

"(C) Every person who is subject to a national primary drinking water regulation under section 1412 shall provide such information as the Administrator may reasonably require to assist the Administrator in establishing regulations under section 1412 of this title, after consultation with States and suppliers of water. The Administrator may not require under this subparagraph the installation of treatment equipment or process changes, the testing of treatment technology, or the analysis or processing of monitoring samples, except where the Administrator provides the funding for such activities. Before exercising this authority, the Administrator shall first seek to obtain the information by voluntary submission.

"(D) The Administrator shall not later than 2 years after the date of enactment of this subparagraph, after consultation with public health experts, representatives of the general public, and officials of State and local governments, review the monitoring requirements for not fewer than 12 contaminants identified by the Administrator, and promulgate any necessary modifications.".

(b) MONITORING RELIEF.—Part B is amended by adding the following new section after section 1417 (42 U.S.C. 300g-6):

"MONITORING OF CONTAMINANTS

"SEC. 1418. (a) INTERIM MONITORING RELIEF AUTHORITY.—

"(1) IN GENERAL.—A State exercising primary enforcement responsibility for public water systems may modify the monitoring requirements for any regulated or unregulated contaminants for which monitoring is required other than microbial contaminants (or indicators thereof), disinfectants and disinfection byproducts or corrosion byproducts for an interim period to provide that any public water system serving 10,000 persons or fewer shall not be required to conduct additional quarterly monitoring during an interim relief period for such contaminants if—

"(A) monitoring, conducted at the beginning of the period for the contaminant concerned and certified to the State by the public water system, fails to detect the presence of the contaminant in the ground or surface water supplying the public water system; and

"(B) the State, considering the hydrogeology of the area and other relevant factors, determines in writing that the contaminant is unlikely to be detected by further monitoring during such period.

"(2) TERMINATION; TIMING OF MONITORING.—The interim relief period referred to in paragraph (1) shall terminate when permanent monitoring relief is adopted and approved for such State, or at the end of 36 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, whichever comes first. In order to serve as a basis for interim relief, the monitoring conducted at the beginning of the period must occur at the time determined by the State to be the time of the public water system's greatest vulnerability to the contaminant concerned in the relevant ground or surface water, taking into account in the case of pesticides the time of application of the pesticide for the source water area and the travel time for the pesticide to reach such waters and taking into account, in the case of other contaminants, seasonality of precipitation and contaminant travel time.

"(b) PERMANENT MONITORING RELIEF AUTHORITY.—

"(1) IN GENERAL.—Each State exercising primary enforcement responsibility for public water systems under this title and having an approved source water assessment program may adopt, in accordance with guidance published by the Administrator, tailored alternative monitoring requirements for public water systems in such State (as an alternative to the monitoring requirements for chemical contaminants set forth in the applicable national primary drinking water regulations) where the State concludes that (based on data available at the time of adoption concerning susceptibility, use, occurrence, or wellhead protection, or from the State's drinking water source water assessment program) such alternative monitoring would provide assurance that it complies with the Administrator's guidelines. The State program must be adequate to assure compliance with, and enforcement of, applicable national primary drinking water regulations. Alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection byproducts, or corrosion byproducts. The preceding sentence is not intended to limit other authority of the Administrator under other provisions of this title to grant monitoring flexibility.

"(2) GUIDELINES.—

"(A) IN GENERAL.—The Administrator shall issue, after notice and comment and at the same time as guidelines are issued for source water assessment under section 1453, guidelines for States to follow in proposing alternative monitoring requirements under paragraph (1) for chemical contaminants. The Administrator shall publish such guidelines in the Federal Register. The guidelines shall assure that the public health will be protected from drinking water contamination. The guidelines shall require that a State alternative monitoring program apply on a contaminant-by-contaminant basis and that, to be eligible for such alternative monitoring program, a public water system must show the State that the contaminant is not present in the drinking water supply or, if present, it is reliably and consistently below the maximum contaminant level.

"(B) DEFINITION.—For purposes of subparagraph (A), the phrase 'reliably and consistently below the maximum contaminant level' means that, although contaminants have been detected in a water supply, the State has sufficient knowledge of the contamination source and extent of contamination to predict that the maximum contaminant level will not be exceeded. In determining that a contaminant is reliably and consistently below the maximum contaminant level, States shall consider the quality and completeness of data, the length of time covered and the volatility or stability of monitoring results during that time, and the proximity of such results to the maximum contaminant level. Wide variations in the analytical results, or analytical results close to the maximum contaminant level, shall not be considered to be reliably and consistently below the maximum contaminant level.

"(3) EFFECT OF DETECTION OF CONTAMINANTS.—The guidelines issued by the Administrator under paragraph (2) shall require that if, after the monitoring program is in effect and operating, a contaminant covered by the alternative monitoring program is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the public water system must either—

"(A) demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination problem; or

"(B) test for the detected contaminant pursuant to the applicable national primary drinking water regulation.

"(4) STATES NOT EXERCISING PRIMARY ENFORCEMENT RESPONSIBILITY.—The Governor of any State not exercising primary enforcement responsibility under section 1413 on the date of enactment of this section may submit to the Administrator a request that the Administrator modify the monitoring requirements established by the Administrator and applicable to public water systems in that State. After consultation with the Governor, the Administrator shall modify the requirements for public water systems in that State if the request of the Governor is in accordance with each of the requirements of this subsection that apply to alternative monitoring requirements established by States that have primary enforcement responsibility. A decision by the Administrator to approve a request under this clause shall be for a period of 3 years and may subsequently be extended for periods of 5 years.

"(c) TREATMENT AS NPDWR.—All monitoring relief granted by a State to a public water system for a regulated contaminant under subsection (a) or (b) shall be treated as part of the national primary drinking water regulation for that contaminant.

"(d) OTHER MONITORING RELIEF.—Nothing in this section shall be construed to affect the authority of the States under applicable national primary drinking water regulations to alter monitoring requirements through waivers or other existing authorities. The Administrator shall periodically review and, as appropriate, revise such authorities.".

(c) UNREGULATED CONTAMINANTS.—Section 1445(a) (42 U.S.C. 300j-4(a)) is amended by striking paragraphs (2) through (8) and inserting the following:

"(2) MONITORING PROGRAM FOR UNREGULATED CONTAMINANTS.—

"(A) ESTABLISHMENT.—The Administrator shall promulgate regulations establishing the criteria for a monitoring program for unregulated contaminants. The regulations shall require monitoring of drinking water supplied by public water systems and shall vary the frequency and schedule for monitoring requirements for systems based on the number of persons served by the system, the source of supply,

and the contaminants likely to be found, ensuring that only a representative sample of systems serving 10,000 persons or fewer are required to monitor.

"(B) MONITORING PROGRAM FOR CERTAIN UNREGULATED CONTAMINANTS.—

"(i) INITIAL LIST.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 5 years thereafter, the Administrator shall issue a list pursuant to subparagraph (A) of not more than 30 unregulated contaminants to be monitored by public water systems and to be included in the national drinking water occurrence data base maintained pursuant to subsection (g).

"(ii) GOVERNORS' PETITION.—The Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more States, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.

"(C) MONITORING PLAN FOR SMALL AND MEDIUM SYSTEMS.—

"(i) IN GENERAL.—Based on the regulations promulgated by the Administrator, each State may develop a representative monitoring plan to assess the occurrence of unregulated contaminants in public water systems that serve a population of 10,000 or fewer in that State. The plan shall require monitoring for systems representative of different sizes, types, and geographic locations in the State.

"(ii) GRANTS FOR SMALL SYSTEM COSTS.—From funds reserved under section 1452(o) or appropriated under subparagraph (H), the Administrator shall pay the reasonable cost of such testing and laboratory analysis as are necessary to carry out monitoring under the plan.

"(D) MONITORING RESULTS.—Each public water system that conducts monitoring of unregulated contaminants pursuant to this paragraph shall provide the results of the monitoring to the primary enforcement authority for the system.

"(E) NOTIFICATION.—Notification of the availability of the results of monitoring programs required under paragraph (2)(A) shall be given to the persons served by the system.

"(F) WAIVER OF MONITORING REQUIREMENT.—The Administrator shall waive the requirement for monitoring for a contaminant under this paragraph in a State, if the State demonstrates that the criteria for listing the contaminant do not apply in that State.

"(G) ANALYTICAL METHODS.—The State may use screening methods approved by the Administrator under subsection (i) in lieu of monitoring for particular contaminants under this paragraph.

"(H) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $10,000,000 for each of the fiscal years 1997 through 2003.".

(d) SCREENING METHODS.—Section 1445 (42 U.S.C. 300j–4) is amended by adding the following after subsection (h):

"(i) SCREENING METHODS.—The Administrator shall review new analytical methods to screen for regulated contaminants and may approve such methods as are more accurate or cost-effective than established reference methods for use in compliance monitoring.".

SEC. 126. OCCURRENCE DATA BASE.

Section 1445 (42 U.S.C. 300j–4) is amended by adding the following new subsection after subsection (f):

"(g) OCCURRENCE DATA BASE.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base, using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under subsection (a)(1)(A) or subsection (a)(2) and reliable information from other public and private sources.

"(2) PUBLIC INPUT.—In establishing the occurrence data base, the Administrator shall solicit recommendations from the Science Advisory Board, the States, and other interested parties concerning the development and maintenance of a national drinking water contaminant occurrence data base, including such issues as the structure and design of the data base, data input parameters and requirements, and the use and interpretation of data.

"(3) USE.—The data shall be used by the Administrator in making determinations under section 1412(b)(1) with respect to the occurrence of a contaminant in drinking water at a level of public health concern.

"(4) PUBLIC RECOMMENDATIONS.—The Administrator shall periodically solicit recommendations from the appropriate officials of the National Academy of Sciences and the States, and any person may submit recommendations to the Administrator, with respect to contaminants that should be included in the national drinking water contaminant occurrence data base, including recommendations with respect to additional unregulated contaminants that should be listed under subsection (a)(2). Any recommendation submitted under this clause shall be accompanied by reasonable documentation that—

"(A) the contaminant occurs or is likely to occur in drinking water; and

"(B) the contaminant poses a risk to public health.

"(5) PUBLIC AVAILABILITY.—The information from the data base shall be available to the public in readily accessible form.

"(6) REGULATED CONTAMINANTS.—With respect to each contaminant for which a national primary drinking water regulation has been established, the data base shall include information on the detection of the contaminant at a quantifiable level in public water systems (including detection of the contaminant at levels not constituting a violation of the maximum contaminant level for the contaminant).

"(7) UNREGULATED CONTAMINANTS.—With respect to contaminants for which a national primary drinking water regulation has not been established, the data base shall include—

"(A) monitoring information collected by public water systems that serve a population of more than 10,000, as required by the Administrator under subsection (a);

"(B) monitoring information collected from a representative sampling of public water systems that serve a population of 10,000 or fewer; and

"(C) other reliable and appropriate monitoring information on the occurrence of the contaminants in public water systems that is available to the Administrator.".

SEC. 127. DRINKING WATER ADVISORY COUNCIL.

The second sentence of section 1446(a) (42 U.S.C. 300j–6(a)) is amended by inserting before the period at the end the following: ", of which two such members shall be associated with small, rural public water systems".

SEC. 128. NEW YORK CITY WATERSHED PROTECTION PROGRAM.

Section 1443 (42 U.S.C. 300j–2) is amended by adding at the end the following:

"(d) NEW YORK CITY WATERSHED PROTECTION PROGRAM.—

"(1) IN GENERAL.—The Administrator is authorized to provide financial assistance to the State of New York for demonstration projects implemented as part of the watershed program for the protection and enhancement of the quality of source waters of the New York City water supply system, including projects that demonstrate, assess, or provide for comprehensive monitoring and surveillance and projects necessary to comply with the criteria for avoiding filtration contained in 40 CFR 141.71. Demonstration projects which shall be eligible for financial assistance shall be certified to the Administrator by the State of New York as satisfying the purposes of this subsection. In certifying projects to the Administrator, the State of New York shall give priority to monitoring projects that have undergone peer review.

"(2) REPORT.—Not later than 5 years after the date on which the Administrator first provides assistance pursuant to this paragraph, the Governor of the State of New York shall submit a report to the Administrator on the results of projects assisted.

"(3) MATCHING REQUIREMENTS.—Federal assistance provided under this subsection shall not exceed 50 percent of the total cost of the protection program being carried out for any particular watershed or ground water recharge area.

"(4) AUTHORIZATION.—There are authorized to be appropriated to the Administrator to carry out this subsection for each of fiscal years 1997 through 2003, $15,000,000 for the purpose of providing assistance to the State of New York to carry out paragraph (1).".

SEC. 129. FEDERAL AGENCIES.

(a) IN GENERAL.—Section 1447 (42 U.S.C. 300j–6) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following:

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government—

"(1) owning or operating any facility in a wellhead protection area;

"(2) engaged in any activity at such facility resulting, or which may result, in the contamination of water supplies in any such area;

"(3) owning or operating any public water system; or

"(4) engaged in any activity resulting, or which may result in, underground injection which endangers drinking water (within the meaning of section 1421(d)(2)),

shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting the protection of such wellhead areas, respecting such public water systems, and respecting any underground injection in the same manner and to the same extent as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as

any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local regulatory program respecting the protection of wellhead areas or public water systems or respecting any underground injection. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning the protection of wellhead areas or public water systems or concerning underground injection with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State requirement adopted pursuant to this title, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"(b) ADMINISTRATIVE PENALTY ORDERS.—

"(1) IN GENERAL.—If the Administrator finds that a Federal agency has violated an applicable requirement under this title, the Administrator may issue a penalty order assessing a penalty against the Federal agency.

"(2) PENALTIES.—The Administrator may, after notice to the agency, assess a civil penalty against the agency in an amount not to exceed $25,000 per day per violation.

"(3) PROCEDURE.—Before an administrative penalty order issued under this subsection becomes final, the Administrator shall provide the agency an opportunity to confer with the Administrator and shall provide the agency notice and an opportunity for a hearing on the record in accordance with chapters 5 and 7 of title 5, United States Code.

"(4) PUBLIC REVIEW.—

"(A) IN GENERAL.—Any interested person may obtain review of an administrative penalty order issued under this subsection. The review may be obtained in the United States District Court for the District of Columbia or in the United States District Court for the district in which the violation is alleged to have occurred by the filing of a complaint with the court within the 30-day period beginning on the date the penalty order becomes final. The person filing the complaint shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General.

"(B) RECORD.—The Administrator shall promptly file in the court a certified copy of the record on which the order was issued.

"(C) STANDARD OF REVIEW.—The court shall not set aside or remand the order unless the court finds that there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

"(D) PROHIBITION ON ADDITIONAL PENALTIES.—The court may not impose an additional civil penalty for a violation that is subject to the order unless the court finds that the assessment constitutes an abuse of discretion by the Administrator."

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State law in effect on the date of enactment of the Safe Drinking Water Act Amendments of 1996 or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(b) CITIZEN ENFORCEMENT.—(1) The first sentence of section 1449(a) (42 U.S.C. 300j–8(a)) is amended—

(A) in paragraph (1), by striking ", or" and inserting a semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(3) for the collection of a penalty by the United States Government (and associated costs and interest) against any Federal agency that fails, by the date that is 18 months after the effective date of a final order to pay a penalty assessed by the Administrator under section 1429(b), to pay the penalty.".

(2) Subsection (b) of section 1449 (42 U.S.C. 300j–8(b)) is amended by striking the period at the end of paragraph (2) and inserting "; or" and by adding the following new paragraph after paragraph (2):

"(3) under subsection (a)(3) prior to 60 days after the plaintiff has given notice of such action to the Attorney General and to the Federal agency.".

(c) WASHINGTON AQUEDUCT.—Section 1447 (42 U.S.C. 300j–6) is amended by adding at the end the following:

"(e) WASHINGTON AQUEDUCT.—The Secretary of the Army shall not pass the cost of any penalty assessed under this title on to any customer, user, or other purchaser of drinking water from the Washington Aqueduct system, including finished water from the Dalecarlia or McMillan treatment plant.".

SEC. 130. STATE REVOLVING LOAN FUNDS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section after section 1451:

"STATE REVOLVING LOAN FUNDS

"SEC. 1452. (a) GENERAL AUTHORITY.—

"(1) GRANTS TO STATES TO ESTABLISH STATE LOAN FUNDS.—

"(A) IN GENERAL.—The Administrator shall offer to enter into agreements with eligible States to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this title, promote the efficient use of fund resources, and for other purposes as are specified in this title.

"(B) ESTABLISHMENT OF FUND.—To be eligible to receive a capitalization grant under this section, a State shall establish a drinking water treatment revolving loan fund (referred to in this section as a 'State loan fund') and comply with the other requirements of this section. Each grant to a State under this section shall be deposited in the State loan fund established by the State, except as otherwise provided in this section and in other provisions of this title. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any State loan fund.

"(C) EXTENDED PERIOD.—The grant to a State shall be available to the State for obligation during the fiscal year for which the funds are authorized and during the following fiscal year, except that grants made available from funds provided prior to fiscal year 1997 shall be available for obligation during each of the fiscal years 1997 and 1998.

"(D) ALLOTMENT FORMULA.—Except as otherwise provided in this section, funds made available to carry out this section shall be allotted to States that have entered into an agreement pursuant to this section (other than the District of Columbia) in accordance with—

"(i) for each of fiscal years 1995 through 1997, a formula that is the same as the formula used to distribute public water system supervision grant funds under section 1443 in fiscal year 1995, except that the minimum proportionate share established in the formula shall be 1 percent of available funds and the formula shall be adjusted to include a minimum proportionate share for the State of Wyoming and the District of Columbia; and

"(ii) for fiscal year 1998 and each subsequent fiscal year, a formula that allocates to each State the proportional share of the State needs identified in the most recent survey conducted pursuant to subsection (h), except that the minimum proportionate share provided to each State shall be the same as the minimum proportionate share provided under clause (i).

"(E) REALLOTMENT.—The grants not obligated by the last day of the period for which the grants are available shall be reallotted according to the appropriate criteria set forth in subparagraph (D), except that the Administrator may reserve and allocate 10 percent of the remaining amount for financial assistance to Indian Tribes in addition to the amount allotted under subsection (i) and none of the funds reallotted by the Administrator shall be reallotted to any State that has not obligated all sums allotted to the State pursuant to this section during the period in which the sums were available for obligation.

"(F) NONPRIMACY STATES.—The State allotment for a State not exercising primary enforcement responsibility for public water systems shall not be deposited in any such fund but shall be allotted by the Administrator under this subparagraph. Pursuant to section 1443(a)(9)(A) such sums allotted under this subparagraph shall be reserved as needed by the Administrator to exercise primary enforcement responsibility under this title in such State and the remainder shall be reallotted to States exercising primary enforcement responsibility for public water systems for deposit in such funds. Whenever the Administrator makes a final determination pursuant to section 1413(b) that the requirements of section 1413(a) are no longer being met by a State, additional grants for such State under this title shall be immediately terminated by the Administrator. This subparagraph shall not apply to any State not exercising primary enforcement responsibility for public water systems as of the date of enactment of the Safe Drinking Water Act Amendments of 1996.

"(G) OTHER PROGRAMS.—

"(i) NEW SYSTEM CAPACITY.—Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1420(a) (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 1420(c) (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants

made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1420 (relating to capacity development).

"(ii) OPERATOR CERTIFICATION.—The Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section unless the State has met the requirements of 1419 (relating to operator certification). All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1419 (relating to operator certification).

"(2) USE OF FUNDS.—Except as otherwise authorized by this title, amounts deposited in a State loan fund, including loan repayments and interest earned on such amounts, shall be used only for providing loans or loan guarantees, or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in a State loan fund established under paragraph (1), or other financial assistance authorized under this section to community water systems and nonprofit noncommunity water systems, other than systems owned by Federal agencies. Financial assistance under this section may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. The funds may also be used to provide loans to a system referred to in section 1401(4)(B) for the purpose of providing the treatment described in section 1401(4)(B)(i)(III). The funds shall not be used for the acquisition of real property or interests therein, unless the acquisition is integral to a project authorized by this paragraph and the purchase is from a willing seller. Of the amount credited to any State loan fund established under this section in any fiscal year, 15 percent shall be available solely for providing loan assistance to public water systems which regularly serve fewer than 10,000 persons to the extent such funds can be obligated for eligible projects of public water systems.

"(3) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no assistance under this section shall be provided to a public water system that—

"(i) does not have the technical, managerial, and financial capability to ensure compliance with the requirements of this title; or

"(ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance.

"(B) RESTRUCTURING.—A public water system described in subparagraph (A) may receive assistance under this section if—

"(i) the use of the assistance will ensure compliance; and

"(ii) if subparagraph (A)(i) applies to the system, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures) if the State determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with the requirements of this title over the long term.

"(C) REVIEW.—Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance, the State shall conduct a review to determine whether subparagraph (A)(i) applies to the system.

"(b) INTENDED USE PLANS.—

"(1) IN GENERAL.—After providing for public review and comment, each State that has entered into a capitalization agreement pursuant to this section shall annually prepare a plan that identifies the intended uses of the amounts available to the State loan fund of the State.

"(2) CONTENTS.—An intended use plan shall include—

"(A) a list of the projects to be assisted in the first fiscal year that begins after the date of the plan, including a description of the project, the expected terms of financial assistance, and the size of the community served;

"(B) the criteria and methods established for the distribution of funds; and

"(C) a description of the financial status of the State loan fund and the short-term and long-term goals of the State loan fund.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—An intended use plan shall provide, to the maximum extent practicable, that priority for the use of funds be given to projects that—

"(i) address the most serious risk to human health;

"(ii) are necessary to ensure compliance with the requirements of this title (including requirements for filtration); and

"(iii) assist systems most in need on a per household basis according to State affordability criteria.

"(B) LIST OF PROJECTS.—Each State shall, after notice and opportunity for public comment, publish and periodically update a list of projects in the State that are eligible for assistance under this section, including the priority assigned to each project and, to the extent known, the expected funding schedule for each project.

"(c) FUND MANAGEMENT.—Each State loan fund under this section shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in the fund are not required for current obligation or expenditure, such amounts shall be invested in interest bearing obligations.

"(d) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—

"(1) LOAN SUBSIDY.—Notwithstanding any other provision of this section, in any case in which the State makes a loan pursuant to subsection (a)(2) to a disadvantaged community or to a community that the State expects to become a disadvantaged community as the result of a proposed project, the State may provide additional subsidization (including forgiveness of principal).

"(2) TOTAL AMOUNT OF SUBSIDIES.—For each fiscal year, the total amount of loan subsidies made by a State pursuant to paragraph (1) may not exceed 30 percent of the amount of the capitalization grant received by the State for the year.

"(3) DEFINITION OF DISADVANTAGED COMMUNITY.—In this subsection, the term 'disadvantaged community' means the service area of a public water system that meets affordability criteria established after public review and comment by the State in which the public water system is located. The Administrator may publish information to assist States in establishing affordability criteria.

"(e) STATE CONTRIBUTION.—Each agreement under subsection (a) shall require that the State deposit in the State loan fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State, except that a State shall not be required to deposit such amount into the fund prior to the date on which each grant payment is made for fiscal years 1994, 1995, 1996, and 1997 if the State deposits the State contribution amount into the State loan fund prior to September 30, 1999.

"(f) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, the amounts deposited into a State loan fund under this section may be used only—

"(1) to make loans, on the condition that—

"(A) the interest rate for each loan is less than or equal to the market interest rate, including an interest free loan;

"(B) principal and interest payments on each loan will commence not later than 1 year after completion of the project for which the loan was made, and each loan will be fully amortized not later than 20 years after the completion of the project, except that in the case of a disadvantaged community (as defined in subsection (d)(3)), a State may provide an extended term for a loan, if the extended term—

"(i) terminates not later than the date that is 30 years after the date of project completion; and

"(ii) does not exceed the expected design life of the project;

"(C) the recipient of each loan will establish a dedicated source of revenue (or, in the case of a privately owned system, demonstrate that there is adequate security) for the repayment of the loan; and

"(D) the State loan fund will be credited with all payments of principal and interest on each loan;

"(2) to buy or refinance the debt obligation of a municipality or an intermunicipal or interstate agency within the State at an interest rate that is less than or equal to the market interest rate in any case in which a debt obligation is incurred after July 1, 1993;

"(3) to guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this section) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation;

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of the bonds will be deposited into the State loan fund; and

"(5) to earn interest on the amounts deposited into the State loan fund.

"(g) ADMINISTRATION OF STATE LOAN FUNDS.—

"(1) COMBINED FINANCIAL ADMINISTRATION.—Notwithstanding subsection (c), a State may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with State law, the financial administration of a State loan fund established under this section with the financial administration of any other revolving fund established by the State if otherwise not prohibited by the law under which the State loan fund was established and if the Administrator determines that—

"(A) the grants under this section, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in subsection (a); and

"(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration)

with respect to assistance remains with the State agency having primary responsibility for administration of the State program under section 1413, after consultation with other appropriate State agencies (as determined by the State): Provided, That in nonprimacy States eligible to receive assistance under this section, the Governor shall determine which State agency will have authority to establish priorities for financial assistance from the State loan fund.

"(2) COST OF ADMINISTERING FUND.—Each State may annually use up to 4 percent of the funds allotted to the State under this section to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund which are incurred after the date of enactment of this section, and to provide technical assistance to public water systems within the State. For fiscal year 1995 and each fiscal year thereafter, each State may use up to an additional 10 percent of the funds allotted to the State under this section—

"(A) for public water system supervision programs under section 1443(a);

"(B) to administer or provide technical assistance through source water protection programs;

"(C) to develop and implement a capacity development strategy under section 1420(c); and

"(D) for an operator certification program for purposes of meeting the requirements of section 1419,

if the State matches the expenditures with at least an equal amount of State funds. At least half of the match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. An additional 2 percent of the funds annually allotted to each State under this section may be used by the State to provide technical assistance to public water systems serving 10,000 or fewer persons in the State. Funds utilized under subparagraph (B) shall not be used for enforcement actions.

"(3) GUIDANCE AND REGULATIONS.—The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—

"(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws;

"(B) guidance to prevent waste, fraud, and abuse; and

"(C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth.

The guidance and regulations shall also ensure that the States, and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

"(4) STATE REPORT.—Each State administering a loan fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this section, including the findings of the most recent audit of the fund and the entire State allotment. The Administrator shall periodically audit all State loan funds established by, and all other amounts allotted to, the States pursuant to this section in accordance with procedures established by the Comptroller General.

"(h) NEEDS SURVEY.—The Administrator shall conduct an assessment of water system capital improvement needs of all eligible public water systems in the United States and submit a report to the Congress containing the results of the assessment within 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996 and every 4 years thereafter.

"(i) INDIAN TRIBES.—

"(1) IN GENERAL.—1½ percent of the amounts appropriated annually to carry out this section may be used by the Administrator to make grants to Indian Tribes and Alaska Native villages that have not otherwise received either grants from the Administrator under this section or assistance from State loan funds established under this section. The grants may only be used for expenditures by tribes and villages for public water system expenditures referred to in subsection (a)(2).

"(2) USE OF FUNDS.—Funds reserved pursuant to paragraph (1) shall be used to address the most significant threats to public health associated with public water systems that serve Indian Tribes, as determined by the Administrator in consultation with the Director of the Indian Health Service and Indian Tribes.

"(3) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

"(4) NEEDS ASSESSMENT.—The Administrator, in consultation with the Director of the Indian Health Service and Indian Tribes, shall, in accordance with a schedule that is consistent with the needs surveys conducted pursuant to subsection (h), prepare surveys and assess the needs of drinking water treatment facilities to serve Indian Tribes, including an evaluation of the public water systems that pose the most significant threats to public health.

"(j) OTHER AREAS.—Of the funds annually available under this section for grants to States, the Administrator shall make allotments in accordance with section 1443(a)(4) for the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam. The grants allotted as provided in this subsection may be provided by the Administrator to the governments of such areas, to public water systems in such areas, or to both, to be used for the public water system expenditures referred to in subsection (a)(2). The grants, and grants for the District of Columbia, shall not be deposited in State loan funds. The total allotment of grants under this section for all areas described in this subsection in any fiscal year shall not exceed 0.33 percent of the aggregate amount made available to carry out this section in that fiscal year.

"(k) OTHER AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2), a State may take each of the following actions:

"(A) Provide assistance, only in the form of a loan, to one or more of the following:

"(i) Any public water system described in subsection (a)(2) to acquire land or a conservation easement from a willing seller or grantor, if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with national primary drinking water regulations.

"(ii) Any community water system to implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to section 1453, in order to facilitate compliance with national primary drinking water regulations applicable to the system under section 1412 or otherwise significantly further the health protection objectives of this title. Funds authorized under this clause may be used to fund only voluntary, incentive-based mechanisms.

"(iii) Any community water system to provide funding in accordance with section 1454(a)(1)(B)(i).

"(B) Provide assistance, including technical and financial assistance, to any public water system as part of a capacity development strategy developed and implemented in accordance with section 1420(c).

"(C) Make expenditures from the capitalization grant of the State for fiscal years 1996 and 1997 to delineate and assess source water protection areas in accordance with section 1453, except that funds set aside for such expenditure shall be obligated within 4 fiscal years.

"(D) Make expenditures from the fund for the establishment and implementation of wellhead protection programs under section 1428.

"(2) LIMITATION.—For each fiscal year, the total amount of assistance provided and expenditures made by a State under this subsection may not exceed 15 percent of the amount of the capitalization grant received by the State for that year and may not exceed 10 percent of that amount for any one of the following activities:

"(A) To acquire land or conservation easements pursuant to paragraph (1)(A)(i).

"(B) To provide funding to implement voluntary, incentive-based source water quality protection measures pursuant to clauses (ii) and (iii) of paragraph (1)(A).

"(C) To provide assistance through a capacity development strategy pursuant to paragraph (1)(B).

"(D) To make expenditures to delineate or assess source water protection areas pursuant to paragraph (1)(C).

"(E) To make expenditures to establish and implement wellhead protection programs pursuant to paragraph (1)(D).

"(3) STATUTORY CONSTRUCTION.—Nothing in this section creates or conveys any new authority to a State, political subdivision of a State, or community water system for any new regulatory measure, or limits any authority of a State, political subdivision of a State or community water system.

"(l) SAVINGS.—The failure or inability of any public water system to receive funds under this section or any other loan or grant program, or any delay in obtaining the funds, shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of this title.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section $599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal years 1995 through 2003. To the extent amounts authorized to be appropriated under this subsection in any fiscal year are not appropriated in that fiscal year, such amounts are authorized to be appropriated in a subsequent fiscal year (prior to the fiscal year 2004). Such sums shall remain available until expended.

"(n) HEALTH EFFECTS STUDIES.—From funds appropriated pursuant to this section for each fiscal year, the Administrator shall reserve $10,000,000 for health effects studies on drinking water contaminants authorized by the Safe Drinking Water Act Amendments of 1996. In allocating funds made available under this subsection, the Administrator shall give priority to studies concerning the health effects of cryptosporidium (as authorized by section 1458(c)), disinfection byproducts (as authorized by section 1458(c)), and arsenic (as authorized by section 1412(b)(12)(A)), and the implementation of a plan for studies of subpopulations at greater risk of adverse effects (as authorized by section 1458(a)).

"(o) MONITORING FOR UNREGULATED CONTAMINANTS.—From funds appropriated pursuant to this section for each fiscal year beginning with fiscal year 1998, the Administrator shall reserve $2,000,000 to pay the costs of monitoring for unregulated contaminants under section 1445(a)(2)(C).

"(p) DEMONSTRATION PROJECT FOR STATE OF VIRGINIA.—Notwithstanding the other provisions of this section limiting the use of funds deposited in a State loan fund from any State allotment, the State of Virginia may, as a single demonstration and with the approval of the Virginia General Assembly and the Administrator, conduct a program to demonstrate alternative approaches to intergovernmental coordination to assist in the financing of new drinking water facilities in the following rural communities in southwestern Virginia where none exists on the date of enactment of the Safe Drinking Water Act Amendments of 1996 and where such communities are experiencing economic hardship: Lee County, Wise County, Scott County, Dickenson County, Russell County, Buchanan County, Tazewell County, and the city of Norton, Virginia. The funds allotted to that State and deposited in the State loan fund may be loaned to a regional endowment fund for the purpose set forth in this subsection under a plan to be approved by the Administrator. The plan may include an advisory group that includes representatives of such counties.

"(q) SMALL SYSTEM TECHNICAL ASSISTANCE.—The Administrator may reserve up to 2 percent of the total funds appropriated pursuant to subsection (m) for each of the fiscal years 1997 through 2003 to carry out the provisions of section 1442(e) (relating to technical assistance for small systems), except that the total amount of funds made available for such purpose in any fiscal year through appropriations (as authorized by section 1442(e)) and reservations made pursuant to this subsection shall not exceed the amount authorized by section 1442(e).

"(r) EVALUATION.—The Administrator shall conduct an evaluation of the effectiveness of the State loan funds through fiscal year 2001. The evaluation shall be submitted to the Congress at the same time as the President submits to the Congress, pursuant to section 1108 of title 31, United States Code, an appropriations request for fiscal year 2003 relating to the budget of the Environmental Protection Agency.".

SEC. 131. STATE GROUND WATER PROTECTION GRANTS.

Part C (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"STATE GROUND WATER PROTECTION GRANTS

"SEC. 1429. (a) IN GENERAL.—The Administrator may make a grant to a State for the development and implementation of a State program to ensure the coordinated and comprehensive protection of ground water resources within the State.

"(b) GUIDANCE.—Not later than 1 year after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and annually thereafter, the Administrator shall publish guidance that establishes procedures for application for State ground water protection program assistance and that identifies key elements of State ground water protection programs.

"(c) CONDITIONS OF GRANTS.—

"(1) IN GENERAL.—The Administrator shall award grants to States that submit an application that is approved by the Administrator. The Administrator shall determine the amount of a grant awarded pursuant to this paragraph on the basis of an assessment of the extent of ground water resources in the State and the likelihood that awarding the grant will result in sustained and reliable protection of ground water quality.

"(2) INNOVATIVE PROGRAM GRANTS.—The Administrator may also award a grant pursuant to this subsection for innovative programs proposed by a State for the prevention of ground water contamination.

"(3) ALLOCATION OF FUNDS.—The Administrator shall, at a minimum, ensure that, for each fiscal year, not less than 1 percent of funds made available to the Administrator by appropriations to carry out this section are allocated to each State that submits an application that is approved by the Administrator pursuant to this section.

"(4) LIMITATION ON GRANTS.—No grant awarded by the Administrator may be used for a project to remediate ground water contamination.

"(d) AMOUNT OF GRANTS.—The amount of a grant awarded pursuant to paragraph (1) shall not exceed 50 percent of the eligible costs of carrying out the ground water protection program that is the subject of the grant (as determined by the Administrator) for the 1-year period beginning on the date that the grant is awarded. The State shall pay a State share to cover the costs of the ground water protection program from State funds in an amount that is not less than 50 percent of the cost of conducting the program.

"(e) EVALUATIONS AND REPORTS.—Not later than 3 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, and every 3 years thereafter, the Administrator shall evaluate the State ground water protection programs that are the subject of grants awarded pursuant to this section and report to the Congress on the status of ground water quality in the United States and the effectiveness of State programs for ground water protection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1997 through 2003.".

SEC. 132. SOURCE WATER ASSESSMENT.

(a) IN GENERAL.—Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"SOURCE WATER QUALITY ASSESSMENT

"SEC. 1453. (a) SOURCE WATER ASSESSMENT.—

"(1) GUIDANCE.—Within 12 months after the date of enactment of the Safe Drinking Water Act Amendments of 1996, after notice and comment, the Administrator shall publish guidance for States exercising primary enforcement responsibility for public water systems to carry out directly or through delegation (for the protection and benefit of public water systems and for the support of monitoring flexibility) a source water assessment program within the State's boundaries. Each State adopting modifications to monitoring requirements pursuant to section 1418(b) shall, prior to adopting such modifications, have an approved source water assessment program under this section and shall carry out the program either directly or through delegation.

"(2) PROGRAM REQUIREMENTS.—A source water assessment program under this subsection shall—

"(A) delineate the boundaries of the assessment areas in such State from which one or more public water systems in the State receive supplies of drinking water, using all reasonably available hydrogeologic information on the sources of the supply of drinking water in the State and the water flow, recharge, and discharge and any other reliable information as the State deems necessary to adequately determine such areas; and

"(B) identify for contaminants regulated under this title for which monitoring is required under this title (or any unregulated contaminants selected by the State, in its discretion, which the State, for the purposes of this subsection, has determined may present a threat to public health), to the extent practical, the origins within each delineated area of such contaminants to determine the susceptibility of the public water systems in the delineated area to such contaminants.

"(3) APPROVAL, IMPLEMENTATION, AND MONITORING RELIEF.—A State source water assessment program under this subsection shall be submitted to the Administrator within 18 months after the Administrator's guidance is issued under this subsection and shall be deemed approved 9 months after the date of such submittal unless the Administrator disapproves the program as provided in section 1428(c). States shall begin implementation of the program immediately after its approval. The Administrator's approval of a State program under this subsection shall include a timetable, established in consultation with the State, allowing not more than 2 years for completion after approval of the program. Public water systems seeking monitoring relief in addition to the interim relief provided under section 1418(a) shall be eligible for monitoring relief, consistent with section 1418(b), upon completion of the assessment in the delineated source water assessment area or areas concerned.

"(4) TIMETABLE.—The timetable referred to in paragraph (3) shall take into consideration the availability to the State of funds under section 1452 (relating to State loan funds) for assessments and other relevant factors. The Administrator may extend any timetable included in a State program approved under paragraph (3) to extend the period for completion by an additional 18 months.

"(5) DEMONSTRATION PROJECT.—The Administrator shall, as soon as practicable, conduct a demonstration project, in consultation with other Federal agencies, to demonstrate the most effective and protective means of assessing and protecting source waters serving large metropolitan areas and located on Federal lands.

"(6) USE OF OTHER PROGRAMS.—To avoid duplication and to encourage efficiency, the program under this section may make use of any of the following:

"(A) Vulnerability assessments, sanitary surveys, and monitoring programs.

"(B) Delineations or assessments of ground water sources under a State wellhead protection program developed pursuant to this section.

"(C) Delineations or assessments of surface or ground water sources under a State pesticide management plan developed pursuant to the Pesticide and Ground Water State Management Plan Regulation (subparts I and J of part 152 of title 40, Code of Federal Regulations), promulgated under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)).

"(D) Delineations or assessments of surface water sources under a State watershed initiative or to satisfy the watershed criterion for determining if filtration is required under the Surface Water Treatment Rule (section 141.70 of title 40, Code of Federal Regulations).

"(E) Delineations or assessments of surface or ground water sources under programs or plans pursuant to the Federal Water Pollution Control Act.

"(7) PUBLIC AVAILABILITY.—The State shall make the results of the source water assessments conducted under this subsection available to the public.

"(b) APPROVAL AND DISAPPROVAL.—For provisions relating to program approval and disapproval, see section 1428(c).".

(b) APPROVAL AND DISAPPROVAL OF STATE PROGRAMS.—Section 1428 (42 U.S.C. 300h–7) is amended as follows:

(1) Amend the first sentence of subsection (c)(1) to read as follows: "If, in the judgment of the Administrator, a State program or portion thereof under subsection (a) is not adequate to protect public water systems as required by subsection (a) or a State program under section 1453 or section 1418(b) does not meet the applicable requirements of section 1453 or section 1418(b), the Administrator shall disapprove such program or portion thereof.".

(2) Add after the second sentence of subsection (c)(1) the following: "A State program developed pursuant to section 1453 or section 1418(b) shall be deemed to meet the applicable requirements of section 1453 or section 1418(b) unless the Administrator determines within 9 months of the receipt of the program that such program (or portion thereof) does not meet such requirements.".

(3) In the third sentence of subsection (c)(1) and in subsection (c)(2), strike "is inadequate" and insert "is disapproved".

(4) In subsection (b), add the following before the period at the end of the first sentence: "and source water assessment programs under section 1453".

SEC. 133. SOURCE WATER PETITION PROGRAM.

(a) IN GENERAL.—Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"SOURCE WATER PETITION PROGRAM

"SEC. 1454. (a) PETITION PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A State may establish a program under which an owner or operator of a community water system in the State, or a municipal or local government or political subdivision of a State, may submit a source water quality protection partnership petition to the State requesting that the State assist in the local development of a voluntary, incentive-based partnership, among the owner, operator, or government and other persons likely to be affected by the recommendations of the partnership, to—

"(i) reduce the presence in drinking water of contaminants that may be addressed by a petition by considering the origins of the contaminants, including to the maximum extent practicable the specific activities that affect the drinking water supply of a community;

"(ii) obtain financial or technical assistance necessary to facilitate establishment of a partnership, or to develop and implement recommendations of a partnership for the protection of source water to assist in the provision of drinking water that complies with national primary drinking water regulations with respect to contaminants addressed by a petition; and

"(iii) develop recommendations regarding voluntary and incentive-based strategies for the long-term protection of the source water of community water systems.

"(B) FUNDING.—Each State may—

"(i) use funds set aside pursuant to section 1452(k)(1)(A)(iii) by the State to carry out a program described in subparagraph (A), including assistance to voluntary local partnerships for the development and implementation of partnership recommendations for the protection of source water such as source water quality assessment, contingency plans, and demonstration projects for partners within a source water area delineated under section 1453(a); and

"(ii) provide assistance in response to a petition submitted under this subsection using funds referred to in subsection (b)(2)(B).

"(2) OBJECTIVES.—The objectives of a petition submitted under this subsection shall be to—

"(A) facilitate the local development of voluntary, incentive-based partnerships among owners and operators of community water systems, governments, and other persons in source water areas; and

"(B) obtain assistance from the State in identifying resources which are available to implement the recommendations of the partnerships to address the origins of drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) that affect the drinking water supply of a community.

"(3) CONTAMINANTS ADDRESSED BY A PETITION.—A petition submitted to a State under this subsection may address only those contaminants—

"(A) that are pathogenic organisms for which a national primary drinking water regulation has been established or is required under section 1412; or

"(B) for which a national primary drinking water regulation has been promulgated or proposed and that are detected by adequate monitoring methods in the source water at the intake structure or in any collection, treatment, storage, or distribution facilities by the community water systems at levels—

"(i) above the maximum contaminant level; or

"(ii) that are not reliably and consistently below the maximum contaminant level.

"(4) CONTENTS.—A petition submitted under this subsection shall, at a minimum—

"(A) include a delineation of the source water area in the State that is the subject of the petition;

"(B) identify, to the maximum extent practicable, the origins of the drinking water contaminants that may be addressed by a petition (including to the maximum extent practicable the specific activities contributing to the presence of the contaminants) in the source water area delineated under section 1453;

"(C) identify any deficiencies in information that will impair the development of recommendations by the voluntary local partnership to address drinking water contaminants that may be addressed by a petition;

"(D) specify the efforts made to establish the voluntary local partnership and obtain the participation of—

"(i) the municipal or local government or other political subdivision of the State with jurisdiction over the source water area delineated under section 1453; and

"(ii) each person in the source water area delineated under section 1453—

"(I) who is likely to be affected by recommendations of the voluntary local partnership; and

"(II) whose participation is essential to the success of the partnership;

"(E) outline how the voluntary local partnership has or will, during development and implementation of recommendations of the voluntary local partnership, identify, recognize and take into account any voluntary or other activities already being undertaken by persons in the source water area delineated under section 1453 under Federal or State law to reduce the likelihood that contaminants will occur in drinking water at levels of public health concern; and

"(F) specify the technical, financial, or other assistance that the voluntary local partnership requests of the State to develop the partnership or to implement recommendations of the partnership.

"(b) APPROVAL OR DISAPPROVAL OF PETITIONS.—

"(1) IN GENERAL.—After providing notice and an opportunity for public comment on a petition submitted under subsection (a), the State shall approve or disapprove the petition, in whole or in part, not later than 120 days after the date of submission of the petition.

"(2) APPROVAL.—The State may approve a petition if the petition meets the requirements established under subsection (a). The notice of approval shall, at a minimum, include for informational purposes—

"(A) an identification of technical, financial, or other assistance that the State will provide to assist in addressing the drinking water contaminants that may be addressed by a petition based on—

"(i) the relative priority of the public health concern identified in the petition with respect to the other water quality needs identified by the State;

"(ii) any necessary coordination that the State will perform of the program established under this section with programs implemented or planned by other States under this section; and

"(iii) funds available (including funds available from a State revolving loan fund established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) or section 1452;

"(B) a description of technical or financial assistance pursuant to Federal and State programs that is available to assist in implementing recommendations of the partnership in the petition, including—

"(i) any program established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(ii) the program established under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

"(iii) the agricultural water quality protection program established under chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.);

"(iv) the sole source aquifer protection program established under section 1427;

"(v) the community wellhead protection program established under section 1428;

"(vi) any pesticide or ground water management plan;

"(vii) any voluntary agricultural resource management plan or voluntary whole farm or whole ranch management plan developed and implemented under a process established by the Secretary of Agriculture; and

"(viii) any abandoned well closure program; and

"(C) a description of activities that will be undertaken to coordinate Federal and State programs to respond to the petition.

"(3) DISAPPROVAL.—If the State disapproves a petition submitted under subsection (a), the State shall notify the entity submitting the petition in writing of the reasons for disapproval. A petition may be resubmitted at any time if—

"(A) new information becomes available;

"(B) conditions affecting the source water that is the subject of the petition change; or

"(C) modifications are made in the type of assistance being requested.

"(c) GRANTS TO SUPPORT STATE PROGRAMS.—

"(1) IN GENERAL.—The Administrator may make a grant to each State that establishes a program under this section that is approved under paragraph (2). The amount of each grant shall not exceed 50 percent of the cost of administering the program for the year in which the grant is available.

"(2) APPROVAL.—In order to receive grant assistance under this subsection, a State shall submit to the Administrator for approval a plan for a source water quality protection partnership program that is consistent with the guidance published under subsection (d). The Administrator shall approve the plan if the plan is consistent with the guidance published under subsection (d).

"(d) GUIDANCE.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator, in consultation with the States, shall publish guidance to assist—

"(A) States in the development of a source water quality protection partnership program; and

"(B) municipal or local governments or political subdivisions of a State and community water systems in the development of source water quality protection partnerships and in the assessment of source water quality.

"(2) CONTENTS OF THE GUIDANCE.—The guidance shall, at a minimum—

"(A) recommend procedures for the approval or disapproval by a State of a petition submitted under subsection (a);

"(B) recommend procedures for the submission of petitions developed under subsection (a);

"(C) recommend criteria for the assessment of source water areas within a State; and

"(D) describe technical or financial assistance pursuant to Federal and State programs that is available to address the contamination of sources of drinking water and to develop and respond to petitions submitted under subsection (a).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 1997 through 2003. Each State with a plan for a program approved under subsection (b) shall receive an equitable portion of the funds available for any fiscal year.

"(f) STATUTORY CONSTRUCTION.—Nothing in this section—

"(1)(A) creates or conveys new authority to a State, political subdivision of a State, or community water system for any new regulatory measure; or

"(B) limits any authority of a State, political subdivision, or community water system; or

"(2) precludes a community water system, municipal or local government, or political subdivision of a government from locally developing and carrying out a voluntary, incentive-based, source water quality protection partnership to address the origins of drinking water contaminants of public health concern.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State in establishing priorities under section 606(c)(1) of the Federal Water Pollution Control Act should give special consideration to projects that are eligible for funding under that Act and have been recommended pursuant to a petition submitted under section 1454 of the Safe Drinking Water Act.

SEC. 134. WATER CONSERVATION PLAN.

Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"WATER CONSERVATION PLAN

"SEC. 1455. (a) GUIDELINES.—Not later than 2 years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall publish in the Federal Register guidelines for water conservation plans for public water systems serving fewer than 3,300 persons, public water systems serving between 3,300 and 10,000 persons, and public water systems serving more than 10,000 persons, taking into consideration such factors as water availability and climate.

"(b) LOANS OR GRANTS.—Within 1 year after publication of the guidelines under subsection (a), a State exercising primary enforcement responsibility for public water systems may require a public water system, as a condition of receiving a loan or grant from a State loan fund under section 1452, to submit with its application for such loan or grant a water conservation plan consistent with such guidelines.".

SEC. 135. DRINKING WATER ASSISTANCE TO COLONIAS.

Part E (42 U.S.C. 300j et seq.) is amended by adding the following new section at the end thereof:

"ASSISTANCE TO COLONIAS

"SEC. 1456. (a) DEFINITIONS.—As used in this section:

"(1) BORDER STATE.—The term 'border State' means Arizona, California, New Mexico, and Texas.

"(2) ELIGIBLE COMMUNITY.—The term 'eligible community' means a low-income community with economic hardship that—

"(A) is commonly referred to as a colonia;

"(B) is located along the United States-Mexico border (generally in an unincorporated area); and

"(C) lacks a safe drinking water supply or adequate facilities for the provision of safe drinking water for human consumption.

"(b) GRANTS TO ALLEVIATE HEALTH RISKS.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities to facilitate compliance with national primary drinking water regulations or otherwise significantly further the health protection objectives of this title.

"(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable drinking water supply system.

"(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.".

SEC. 136. ESTROGENIC SUBSTANCES SCREENING PROGRAM.

Part E (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"ESTROGENIC SUBSTANCES SCREENING PROGRAM

"SEC. 1457. In addition to the substances referred to in section 408(p)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(p)(3)(B)) the Administrator may provide for testing under the screening program authorized by section 408(p) of such Act, in accordance with the provisions of section 408(p) of such Act, of any other substance that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substance.".

SEC. 137. DRINKING WATER STUDIES.

Part E (42 U.S.C. 300j et seq.) is amended by adding after section 1457 the following:

"DRINKING WATER STUDIES

"SEC. 1458. (a) SUBPOPULATIONS AT GREATER RISK.—

"(1) IN GENERAL.—The Administrator shall conduct a continuing program of studies to identify groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to contaminants in drinking water. The study shall examine whether and to what degree infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subpopulations that can be identified and characterized are likely to experience elevated health risks, including risks of cancer, from contaminants in drinking water.

"(2) REPORT.—Not later than 4 years after the date of enactment of this subsection and periodically thereafter as new and significant information becomes available, the Administrator shall report to the Congress on the results of the studies.

"(b) BIOLOGICAL MECHANISMS.—The Administrator shall conduct biomedical studies to—

"(1) understand the mechanisms by which chemical contaminants are absorbed, distributed, metabolized, and eliminated from the human body, so as to develop more accurate physiologically based models of the phenomena;

"(2) understand the effects of contaminants and the mechanisms by which the contaminants cause adverse effects (especially noncancer and infectious effects) and the variations in the effects among humans, especially subpopulations at greater risk of adverse effects, and between test animals and humans; and

"(3) develop new approaches to the study of complex mixtures, such as mixtures found in drinking water, especially to determine the prospects for synergistic or antagonistic interactions that may affect the shape of the dose-response relationship of the individual chemicals and microbes, and to examine noncancer endpoints and infectious diseases, and susceptible individuals and subpopulations.

"(c) STUDIES ON HARMFUL SUBSTANCES IN DRINKING WATER.—

"(1) DEVELOPMENT OF STUDIES.—The Administrator shall, not later than 180 days after the date of enactment of this section and after consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and, as appropriate, the heads of other Federal agencies, conduct the studies described in paragraph (2) to support the development and implementation of the most current version of each of the following:

"(A) Enhanced Surface Water Treatment Rule (59 Fed. Reg. 38832 (July 29, 1994)).

"(B) Disinfectant and Disinfection Byproducts Rule (59 Fed. Reg. 38668 (July 29, 1994)).

"(C) Ground Water Disinfection Rule (availability of draft summary announced at (57 Fed. Reg. 33960; July 31, 1992)).

"(2) CONTENTS OF STUDIES.—The studies required by paragraph (1) shall include, at a minimum, each of the following:

"(A) Toxicological studies and, if warranted, epidemiological studies to determine what levels of exposure from disinfectants and disinfection byproducts, if any, may be associated with developmental and birth defects and other potential toxic end points.

"(B) Toxicological studies and, if warranted, epidemiological studies to quantify the carcinogenic potential from exposure to disinfection byproducts resulting from different disinfectants.

"(C) The development of dose-response curves for pathogens, including cryptosporidium and the Norwalk virus.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $12,500,000 for each of fiscal years 1997 through 2003.

"(d) WATERBORNE DISEASE OCCURRENCE STUDY.—

"(1) SYSTEM.—The Director of the Centers for Disease Control and Prevention, and the Administrator shall jointly—

"(A) within 2 years after the date of enactment of this section, conduct pilot waterborne disease occurrence studies for at least 5 major United States communities or public water systems; and

"(B) within 5 years after the date of enactment of this section, prepare a report on the findings of the pilot studies, and a national estimate of waterborne disease occurrence.

"(2) TRAINING AND EDUCATION.—The Director and Administrator shall jointly establish a national health care provider training and public education campaign to inform both the professional health care provider community and the general public about waterborne disease and the symptoms that may be caused by infectious agents, including microbial contaminants. In developing such a campaign, they shall seek comment from interested groups and individuals, including scientists, physicians, State and local governments, environmental groups, public water systems, and vulnerable populations.

"(3) FUNDING.—There are authorized to be appropriated for each of the fiscal years 1997 through 2001, $3,000,000 to carry out this subsection. To the extent funds under this subsection are not fully appropriated, the Administrator may use not more than $2,000,000 of the funds from amounts reserved under section 1452(n) for health effects studies for purposes of this subsection. The Administrator may transfer a portion of such funds to the Centers for Disease Control and Prevention for such purposes.".

TITLE II—DRINKING WATER RESEARCH

SEC. 201. DRINKING WATER RESEARCH AUTHORIZATION.

Other than amounts authorized to be appropriated to the Administrator of the Environmental Protection Agency under other titles of this Act, there are authorized to be appropriated such additional sums as may be necessary for drinking water research for fiscal years 1997 through 2003. The annual total of such additional sums authorized to be appropriated under this section shall not exceed $26,593,000.

SEC. 202. SCIENTIFIC RESEARCH REVIEW.

(a) IN GENERAL.—The Administrator shall—

(1) develop a strategic plan for drinking water research activities throughout the Environmental Protection Agency (in this section referred to as the "Agency");

(2) integrate that strategic plan into ongoing Agency planning activities; and

(3) review all Agency drinking water research to ensure the research—

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. WATER RETURN FLOWS.

Section 3013 of Public Law 102–486 (42 U.S.C. 13551) is repealed.

SEC. 302. TRANSFER OF FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, at any time after the date 1 year after a State establishes a State loan fund pursuant to section 1452 of the Safe Drinking Water Act but prior to fiscal year 2002, a Governor of the State may—

(1) reserve up to 33 percent of a capitalization grant made pursuant to such section 1452 and add the funds reserved to any funds provided to the State pursuant to section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381); and

(2) reserve in any year a dollar amount up to the dollar amount that may be reserved under paragraph (1) for that year from capitalization grants made pursuant to section 601 of such Act (33 U.S.C. 1381) and add the reserved funds to any funds provided to the State pursuant to section 1452 of the Safe Drinking Water Act.

(b) REPORT.—Not later than 4 years after the date of enactment of this Act, the Administrator shall submit a report to the Congress regarding the implementation of this section, together with the Administrator's recommendations, if any, for modifications or improvement.

(c) STATE MATCH.—Funds reserved pursuant to this section shall not be considered to be a State match of a capitalization grant required pursuant to section 1452 of the Safe Drinking Water Act or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 303. GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency may make grants to the State of Alaska for the benefit of rural and Native villages in Alaska to pay the Federal share of the cost of—

(1) the development and construction of public water systems and wastewater systems to improve the health and sanitation conditions in the villages; and

(2) training, technical assistance, and educational programs relating to the operation and management of sanitation services in rural and Native villages.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities described in subsection (a) shall be 50 percent.

(c) ADMINISTRATIVE EXPENSES.—The State of Alaska may use an amount not to exceed 4 percent of any grant made available under this subsection for administrative expenses necessary to carry out the activities described in subsection (a).

(d) CONSULTATION WITH THE STATE OF ALASKA.—The Administrator shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each eligible village.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2000 to carry out this section.

SEC. 304. SENSE OF THE CONGRESS.

It is the sense of the Congress that appropriations for grants under section 130 (relating to New York City watershed), section 137 (relating to colonias), and section 303 (relating to Alaska Native villages) should not be provided if such appropriations would prevent the adequate capitalization of State revolving loan funds.

SEC. 305. BOTTLED DRINKING WATER STANDARDS.

Section 410 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 349) is amended as follows:

(1) By striking "Whenever" and inserting "(a) Except as provided in subsection (b), whenever".

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

"(b)(1) Not later than 180 days before the effective date of a national primary drinking water regulation promulgated by the Administrator of the Environmental Protection Agency for a contaminant under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the Secretary shall promulgate a standard of quality regulation under this subsection for that contaminant in bottled water or make a finding that such a regulation is not necessary to protect the public health because the contaminant is contained in water in public water systems (as defined under section 1401(4) of such Act (42 U.S.C. 300f(4))) but not in water used for bottled drinking water. The effective date for any such standard of quality regulation shall be the same as the effective date for such national primary drinking water regulation, except for any standard of quality of regulation promulgated by the Secretary before the date of enactment of the Safe Drinking Water Act Amendments of 1996 for which (as of such date of enactment) an effective date had not been established. In the case of a standard of quality regulation to which such exception applies, the Secretary shall promulgate monitoring requirements for the contaminants covered by the regulation not later than 2 years after such date of enactment.

"(2) A regulation issued by the Secretary as provided in this subsection shall include any monitoring requirements that the Secretary determines appropriate for bottled water.

"(3) A regulation issued by the Secretary as provided in this subsection shall require the following:

"(A) In the case of contaminants for which a maximum contaminant level is established in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the regulation under this subsection shall establish a maximum contaminant level for the contaminant in bottled water which is no less stringent than the maximum contaminant level provided in the national primary drinking water regulation.

"(B) In the case of contaminants for which a treatment technique is established in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g–1), the regulation under this subsection shall require that bottled water be subject to requirements no less protective of the public health than those applicable to water provided by public water systems using the treatment technique required by the national primary drinking water regulation.

"(4)(A) If the Secretary does not promulgate a regulation under this subsection within the period described in paragraph (1), the national primary drinking water regulation referred to in paragraph (1) shall be considered, as of the date on which the Secretary is required to establish a regulation under paragraph (1), as the regulation applicable under this subsection to bottled water.

"(B) In the case of a national primary drinking water regulation that pursuant to subparagraph (A) is considered to be a standard of quality regulation, the Secretary shall, not later than the applicable date referred to in such subparagraph, publish in the Federal Register a notice—

"(i) specifying the contents of such regulation, including monitoring requirements; and

"(ii) providing that for purposes of this paragraph the effective date for such regulation is the same as the effective date for the regulation for purposes of the Safe Drinking Water Act (or, if the exception under paragraph (1) applies to the regulation, that the effective date for the regulation is not later than 2 years and 180 days after the date of enactment of the Safe Drinking Water Act Amendments of 1996).".

SEC. 306. WASHINGTON AQUEDUCT.

(a) DEFINITIONS.—In this section:

(1) NON-FEDERAL PUBLIC WATER SUPPLY CUSTOMER.—The terms "non-Federal public water supply customer" and "customer" mean—

(A) the District of Columbia;

(B) Arlington County, Virginia; and

(C) the city of Falls Church, Virginia.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

(3) VALUE TO THE GOVERNMENT.—The term "value to the Government" means the net present value of a contract entered into under subsection (e)(2), calculated in accordance with subparagraphs (A) and (B) of section 502(5) of the Congressional Budget Act of 1974 (2 U.S.C. 66la(5)), other than section 502(5)(B)(I) of the Act, as though the contract provided for repayment of a direct loan to a customer.

(4) WASHINGTON AQUEDUCT.—The term "Washington Aqueduct" means the Washington Aqueduct facilities and related facilities owned by the Federal Government as of the date of enactment of this Act, including—

(A) the dams, intake works, conduits, and pump stations that capture and transport raw water from the Potomac River to the Dalecarlia Reservoir;

(B) the infrastructure and appurtenances used to treat water taken from the Potomac River to potable standards; and

(C) related water distribution facilities.

(b) REGIONAL ENTITY.—

(1) IN GENERAL.—The Congress encourages and grants consent to the customers to establish a non-Federal public or private entity, or to enter into an agreement with an existing non-Federal public or private entity, to—

(A) receive title to the Washington Aqueduct; and

(B) operate, maintain, and manage the Washington Aqueduct in a manner that adequately represents all interests of its customers.

(2) CONSIDERATION.—If an entity receiving title to the Washington Aqueduct is not composed entirely of non-Federal public water supply customers, the entity shall consider the customers' historical provision of equity for the Aqueduct.

(3) PRIORITY ACCESS.—The customers shall have priority access to any water produced by the Washington Aqueduct.

(4) CONSENT OF THE CONGRESS.—The Congress grants consent to the customers to enter into any interstate agreement or compact required to carry out this section.

(5) STATUTORY CONSTRUCTION.—This section shall not preclude the customers from pursuing any option regarding ownership, operation, maintenance, and management of the Washington Aqueduct.

(c) PROGRESS REPORT AND PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on any progress in achieving the objectives of subsection (b)(1) and shall submit a plan for the transfer of ownership, operation, maintenance, and management of the Washington Aqueduct to a non-Federal public or private entity. Such plan shall include a detailed consideration of any proposal to transfer such ownership, maintenance, or management to a private entity.

(d) TRANSFER.—

(1) IN GENERAL.—Subject to subsection (b)(2), the other provisions of this subsection, and any other terms and conditions the Secretary considers appropriate to protect the interests of the United States, the Secretary shall, not later than 3 years after the date of enactment of this Act and with the consent of a majority of the customers and without consideration to the Federal Government, transfer all right, title, and interest of the United States in the Washington Aqueduct, and its real property, facilities, and personalty, to a non-Federal, public or private entity. Approval of such transfer shall not be unreasonably withheld by the Secretary.

(2) ADEQUATE CAPABILITIES.—The Secretary shall transfer ownership of the Washington Aqueduct under paragraph (1) only if the Secretary determines, after opportunity for public input, that the entity to receive ownership of the Aqueduct has the technical, managerial, and financial capability to operate, maintain, and manage the Aqueduct.

(3) RESPONSIBILITIES.—The Secretary shall not transfer title under this subsection unless the entity to receive title assumes full responsibility for performing and financing the operation, maintenance, repair, replacement, rehabilitation, and necessary capital improvements of the Washington Aqueduct so as to ensure the continued operation of the Washington Aqueduct consistent with the Aqueduct's intended purpose of providing an uninterrupted supply of potable water sufficient to meet the current and future needs of the Aqueduct's service area.

(e) BORROWING AUTHORITY.—

(1) BORROWING.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph and paragraph (2), the Secretary is authorized to borrow from the Treasury of the United States such amounts for fiscal years 1997, 1998, and 1999 as are sufficient to cover any obligations that the Army Corps of Engineers is required to incur in carrying out capital improvements during fiscal years 1997, 1998, and 1999 for the Washington Aqueduct to ensure continued operation of the Aqueduct until such time as a transfer of title to the Aqueduct has taken place.

(E) LIMITATION.—The amount borrowed by the Secretary under subparagraph (A) may not exceed $29,000,000 for fiscal year 1997, $24,000,000 for fiscal year 1998, and $22,000,000 for fiscal year 1999.

(C) AGREEMENT.—Amounts borrowed under subparagraph (A) may only be used for capital improvements agreed to by the Army Corps of Engineers and the customers.

(D) TERMS OF BORROWING.—

(i) IN GENERAL.—The Secretary of the Treasury shall provide the funds borrowed under subparagraph (A) under such terms and conditions as the Secretary of Treasury determines to be necessary and in the public interest and subject to the contracts required under paragraph (2).

(ii) TERM.—The term of any loan made under subparagraph (A) shall be for a period of not less than 20 years.

(iii) PREPAYMENT.—There shall be no penalty for the prepayment of any amounts borrowed under subparagraph (A).

(2) CONTRACTS WITH CUSTOMERS.—

(A) IN GENERAL.—The borrowing authority under paragraph (1)(A) shall be effective only after the Chief of Engineers has entered into contracts with each customer under which the customer commits to repay a pro rata share (based on water purchase) of the principal and interest owed by the Secretary to the Secretary of the Treasury under paragraph (1).

(B) PREPAYMENT.—Any customer may repay, at any time, the pro rata share of the principal and interest then owed by the customer and outstanding, or any portion thereof, without penalty.

(C) RISK OF DEFAULT.—Under each of the contracts, the customer that enters into the contract shall commit to pay any additional amount necessary to fully offset the risk of default on the contract.

(D) OBLIGATIONS.—Each contract under subparagraph (A) shall include such terms and conditions as the Secretary of the Treasury may require so that the value to the Government of the contracts entered into under subparagraph (A) is estimated to be equal to the obligations of the Army Corps of Engineers for carrying out capital improvements at the Washington Aqueduct at the time that each series of contracts is entered into.

(E) OTHER CONDITIONS.—Each contract entered into under subparagraph (A) shall—

(i) provide that the customer pledges future income only from fees assessed for principal and interest payments required by such contracts and costs to operate and maintain the Washington Aqueduct;

(ii) provide the United States priority in regard to income from fees assessed to operate and maintain the Washington Aqueduct; and

(iii) include other conditions consistent with this section that the Secretary of the Treasury determines to be appropriate.

(3) LIMITATIONS.—

(A) BORROWING AUTHORITY.—The Secretary's borrowing authority for making capital improvements at the Washington Aqueduct under paragraph (1) shall not extend beyond fiscal year 1999.

(B) OBLIGATION AUTHORITY.—Upon expiration of the borrowing authority exercised under paragraph (1), the Secretary shall not obligate funds for making capital improvements at the Washington Aqueduct except funds which are provided in advance by the customers. This limitation does not affect the Secretary's authority to conduct normal operation and maintenance activities, including minor repair and replacement work.

(4) IMPACT ON IMPROVEMENT PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with other Federal agencies, shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the impact of the borrowing authority provided under this subsection on the near-term improvement projects in the Washington Aqueduct Improvement Program, work scheduled, and the financial liability to be incurred.

(f) REISSUANCE OF NPDES PERMIT.—Prior to reissuing a National Pollutant Discharge Elimination System (NPDES) permit for the Washington Aqueduct, the Administrator of the Environmental Protection Agency shall consult with the customers and the Secretary regarding opportunities for more efficient water facility configurations that might be achieved through various possible transfers of the Washington Aqueduct. Such consultation shall include specific consideration of concerns regarding a proposed solids recovery facility, and may include a public hearing.

SEC. 307. WASTEWATER ASSISTANCE TO COLONIAS.

(a) DEFINITIONS.—As used in this section:

(1) BORDER STATE.—The term "border State" means Arizona, California, New Mexico, and Texas.

(2) ELIGIBLE COMMUNITY.—The term "eligible community" means a low-income community with economic hardship that—

(A) is commonly referred to as a colonia;

(B) is located along the United States-Mexico border (generally in an unincorporated area); and

(C) lacks basic sanitation facilities such as household plumbing or a proper sewage disposal system.

(3) TREATMENT WORKS.—The term "treatment works" has the meaning provided in section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(b) GRANTS FOR WASTEWATER ASSISTANCE.—The Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies are authorized to award grants to a border State to provide assistance to eligible communities for the planning, design, and construction or improvement of sewers, treatment works, and appropriate connections for wastewater treatment.

(c) USE OF FUNDS.—Each grant awarded pursuant to subsection (b) shall be used to provide assistance to one or more eligible communities with respect to which the residents are subject to a significant health risk (as determined by the Administrator or the head of the Federal agency making the grant) attributable to the lack of access to an adequate and affordable treatment works for wastewater.

(d) COST SHARING.—The amount of a grant awarded pursuant to this section shall not exceed 50 percent of the costs of carrying out the project that is the subject of the grant.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 1997 through 1999.

SEC. 308. PREVENTION AND CONTROL OF ZEBRA MUSSEL INFESTATION OF LAKE CHAMPLAIN.

(a) FINDINGS.—Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended as follows:

(1) By striking "and" at the end of paragraph (3).

(2) By striking the period at the end of paragraph (4) and inserting "; and".

(3) By adding at the end the following new paragraph;

"(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate.".

(b) EX OFFICIO MEMBERS OF AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(c) of such Act (16 U.S.C. 4721(c)) is amended by inserting ", the Lake Champlain Basin Program," after "Great Lakes Commission".

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

SEC. 401. NATIONAL PROGRAM.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Administrator of the Environmental Protection Agency may provide technical and financial assistance in the form of grants to States (1)

for the construction, rehabilitation, and improvement of water supply systems, and (2) consistent with nonpoint source management programs established under section 319 of the Federal Water Pollution Control Act, for source water quality protection programs to address pollutants in navigable waters for the purpose of making such waters usable by water supply systems.

(b) LIMITATION.—Not more than 30 percent of the amounts appropriated to carry out this section in a fiscal year may be used for source water quality protection programs described in subsection (a)(2).

(c) CONDITION.—As a condition to receiving assistance under this section, a State shall ensure that such assistance is carried out in the most cost-effective manner, as determined by the State.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) UNCONDITIONAL AUTHORIZATION.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 1997 through 2003. Such sums shall remain available until expended.

(2) CONDITIONAL AUTHORIZATION.—In addition to amounts authorized under paragraph (1), there are authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 1997 through 2003, provided that such authorization shall be in effect for a fiscal year only if at least 75 percent of the total amount of funds authorized to be appropriated for such fiscal year by section 1452(m) of the Safe Drinking Water Act are appropriated.

(e) ACQUISITION OF LANDS.—Assistance provided with funds made available under this title may be used for the acquisition of lands and other interests in lands; however, nothing in this title authorizes the acquisition of lands or other interests in lands from other than willing sellers.

(f) FEDERAL SHARE.—The Federal share of the cost of activities for which grants are made under this title shall be 50 percent.

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) STATE.—The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) WATER SUPPLY SYSTEM.—The term "water supply system" means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves at least 25 individuals and a draw and fill system for the provision to the public of water for human consumption. Such term does not include a system owned by a Federal agency. Such term includes (A) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and (B) any collection or pretreatment facilities not under such control that are used primarily in connection with such system.

TITLE V—CLERICAL AMENDMENTS

SEC. 501. CLERICAL AMENDMENTS.

(a) PART B.—Part B (42 U.S.C. 300g et seq.) is amended as follows:

(1) In section 1412(b), move the margins of paragraph (11) 2 ems to the right.

(2) In section 1412(b)(8), strike "1442(g)" and insert "1442(e)".

(3) In section 1415(a)(1)(A), insert "the" before "time the variance is granted".

(b) PART C.—Part C (42 U.S.C. 300h et seq.) is amended as follows:

(1) In section 1421(b)(3)(B)(i), strike "number or States" and inserting "number of States".

(2) In section 1427(k), strike "this subsection" and inserting "this section".

(c) PART E.—Section 1441(f) (42 U.S.C. 300j(f)) is amended by inserting a period at the end.

(d) SECTION 1465(b).—Section 1465(b) (42 U.S.C. 300j-25(b)) is amended by striking "as by" and inserting "by".

(e) SHORT TITLE.—Section 1 of Public Law 93-523 (88 Stat. 1600) is amended by inserting "of 1974" after "Act" the second place it appears and title XIV of the Public Health Service Act is amended by inserting the following immediately before part A:

"SHORT TITLE

"SEC. 1400. This title may be cited as the 'Safe Drinking Water Act'.".

(f) TECHNICAL AMENDMENTS TO SECTION HEADINGS.—

(1) The section heading and subsection designation of subsection (a) of section 1417 (42 U.S.C. 300g-6) are amended to read as follows:

"PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX

"SEC. 1417. (a)".

(2) The section heading and subsection designation of subsection (a) of section 1426 (42 U.S.C. 300h-5) are amended to read as follows:

"REGULATION OF STATE PROGRAMS

"SEC. 1426. (a)".

(3) The section heading and subsection designation of subsection (a) of section 1427 (42 U.S.C. 300h-6) are amended to read as follows:

"SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

"SEC. 1427. (a)".

(4) The section heading and subsection designation of subsection (a) of section 1428 (42 U.S.C. 300h-7) are amended to read as follows:

"STATE PROGRAMS TO ESTABLISH WELLHEAD PROTECTION AREAS

"SEC. 1428. (a)".

(5) The section heading and subsection designation of subsection (a) of section 1432 (42 U.S.C. 300i-1) are amended to read as follows:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a)".

(6) The section heading and subsection designation of subsection (a) of section 1451 (42 U.S.C. 300j-11) are amended to read as follows:

"INDIAN TRIBES

"SEC. 1451. (a)".

(7) The section heading and first word of section 1461 (42 U.S.C. 300j-21) are amended to read as follows:

"DEFINITIONS

"SEC. 1461. As".

(8) The section heading and first word of section 1462 (42 U.S.C. 300j-22) are amended to read as follows:

"RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS

"SEC. 1462. For".

(9) The section heading and subsection designation of subsection (a) of section 1463 (42 U.S.C. 300j-23) are amended to read as follows:

"DRINKING WATER COOLERS CONTAINING LEAD

"SEC. 1463. (a)".

(10) The section heading and subsection designation of subsection (a) of section 1464 (42 U.S.C. 300j-24) are amended to read as follows:

"LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1464. (a)".

(11) The section heading and subsection designation of subsection (a) of section 1465 (42 U.S.C. 300j-25) are amended to read as follows:

"FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER

"SEC. 1465. (a)".

And the House agree to the same.

From the Committee on Commerce, for consideration of the Senate bill (except for secs. 28(a) and 28(e)) and the House amendment (except for title V), and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,
MIKE CRAPO,
BRIAN P. BILBRAY,

From the Committee on Commerce, for consideration of secs. 28(a) and 28(e) of the Senate bill, and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,

As additional conferees from the Committee on Science, for the consideration of that portion of section 3 that adds a new sec. 1478 and secs. 23, 25(f), and 28(f) of the Senate bill, and that portion of sec. 308 that adds a new sec. 1452(n) and sec. 402 and title VI of the House amendment, and modifications committed to conference:

ROBERT S. WALKER,
DANA ROHRABACHER,
TIM ROEMER,

As additional conferees from the Committee on Transportation and Infrastructure, for the consideration of that portion of sec. 3 that adds a new sec. 1471(c) and secs. 9, 17, 22(d), 25(a), 25(g), 28(a), 28(e), 28(h), and 28(i) of the Senate bill, and title V of the House amendment and modifications committed to conference:

BUD SHUSTER,
SHERWOOD BOEHLERT,
ZACH WAMP,
ROBERT A. BORSKI,
ROBERT MENENDEZ,

Provided, Mr. Blute is appointed in lieu of Mr. Wamp for consideration of title V of the House amendment:

PETER BLUTE,
Managers on the Part of the House.

JOHN H. CHAFEE,
DIRK KEMPTHORNE,
CRAIG THOMAS,
JOHN WARNER,
MAX BAUCUS,
HARRY REID,
FRANK LAUTENBERG,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee on Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 1316, to reauthorize and amend Title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the Senate bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment.

The conference agreement on S. 1316, the Safe Drinking Water Act Amendments of 1996, provides (1) revisions to the procedures, process, and criteria for regulating contaminants in drinking water to protect the public health; (2) special programs to help small public water systems meet the requirements of the Act; (3) provisions to promote cost-effectiveness in new drinking water regulations; (4) increased flexibility for water suppliers where consistent with public health;

(5) new programs to promote the proper operation of public water systems; (6) substantial new Federal financial and technical assistance to help water suppliers meet the requirements of the Act and to help States in carrying out programs under the Act; (7) refinements and new programs to improve protection of public health from drinking water contamination; and (8) consumers with information on the source of the water they are drinking and its quality and safety.

Certain matters agreed to in conference are noted below.

TITLE I—AMENDMENTS TO SAFE DRINKING WATER ACT

Maximum contaminant level goals (sec. 104(a))

The Senate recedes from its legislative provision and report language (found in Senate Report 104–169, pages 30–33) with respect to maximum contaminant level goals for carcinogens. The House recedes from all its report language on the same subject (House Report 104–632, the first paragraph on page 28). The Conferees agree that the Safe Drinking Water Act Amendments of 1996 make no changes to the provision or legislative history for maximum contaminant level goals.

Disinfectants and disinfection by-products (sec. 104(b))

The conference agreement addresses the application of amended section 1412(b)(5) to the Environmental protection Agency's proposed Stage I and Stage II regulations for disinfectants and disinfection byproducts. Public water systems use disinfectants to kill harmful microbial contaminants that can cause serious illness or even death. However, disinfectants and their resulting byproducts also may pose risks, including potential increases in cancer rates and liver and kidney damage. The regulation of both risks from microbial contaminants and risks from disinfectants and disinfection byproducts presents the Environmental Protection Agency (EPA) with a unique challenge. Nonetheless, controls for cryptosporidium and disinfection byproducts are widely considered to be a pressing and high priority for improving drinking water safety.

In November 1992, EPA convened a negotiated rulemaking to examine both the proper strategy for combating cryptosporidium and other microbial contaminants and to consider threats to human health from the use of disinfectants commonly employed to combat microbial contaminants. EPA had determined to use the negotiated rulemaking process because the Agency believed that "the available occurrence, treatment and health effects data were inadequate to address EPA's concern about the tradeoff between risks from disinfectants and disinfection byproducts and microbial pathogen risk, and wanted all stakeholders to participate in the decision-making on setting proposed standards." (59 Fed. Reg. 38670, July 29, 1994).

Representatives from EPA, State and local government, water suppliers, public health organizations and environmental groups, among others, worked for nearly two years to reach agreement on a framework for regulating both microbial contaminants and disinfection byproducts. The framework will result in rules for controlling disinfection byproducts and an Enhanced Surface Water Treatment Rule to address risks posed from microbial organisms. The package of rules when fully implemented is expected to minimize exposures to harmful microbial contaminants while reducing exposure to disinfection byproducts that present a health risk by optimizing the use of disinfectants and other means of water treatment.

The negotiating committee agreed that a two-step process was necessary to address the microbial and disinfectants and disinfection by-products issues. The July 29, 1994 *Federal Register* notice thus proposes both Stage I and Stage II levels of control. The Stage I provisions set limits for two principal classes of chlorination byproducts, as well as limits for specific byproducts resulting from other disinfection processes, at levels deemed appropriate as a first step standard based on current information. More stringent Stage II controls were also proposed for the two classes of chlorination byproducts but a second round of negotiations is envisioned. In the meantime, EPA is conducting an agreed-upon regime of health effects research and water quality monitoring which will be used both to finalize the disinfection byproduct rule and the Enhanced Surface Water Treatment Rule (as provided for by the parties' agreement) and for the second round of negotiations. "Based on this information and new data generated through research," EPA "will reevaluate the Stage 2 regulations and repropose, as appropriate, depending on criteria agreed on in a second regulatory negotiation (or similar rule development process)" (59 Fed. Reg. 38743).

The Conferees acknowledge the delicate balance that was struck by the parties in structuring the settlement of these complicated and difficult issues, and encourages the parties to continue according to the negotiated agreement. The negotiated agreement contains an over-arching set of principles to guide the individual rulemakings which incorporated consideration of various factors. The Conferees intend that all additional negotiations weigh the same factors that guided the development of the proposed rule. Specifically, all further negotiations for the Stage II regulations for the control of disinfection byproducts should follow and be consistent with the considerations that led to an agreement regarding the proposed rule for Stage I.

In order to preserve the progress made, there has been considerable care taken to ensure that the new provisions of this conference agreement not conflict with the parties' agreement nor disrupt the implementation of the regulatory actions. To do otherwise would substantially disrupt, if not destroy, the next round of negotiations and lead to unnecessary delays in protecting public health. For this reason, the conference agreement precludes the use of the new authority in section 1412(b)(6) to establish maximum contaminant levels for the Stage I and Stage II rulemakings for disinfectants or disinfection byproducts or to establish a national primary drinking water maximum contaminant level or treatment technique for cryptosporidium.

The Conferees recognize, however, that the development of this regulatory package has required the negotiators to consider complex issues of risk, costs, affordability, feasible technology, and health benefits. It is the Conferees' view that the proposed rule that has been produced is consistent with the "risk-risk" provision set out in new section 1412(b)(5). Therefore, Section 104(b) makes clear that the Administrator may use the authority of section 1412(b)(5) to promulgate Stage I and Stage II rules. However, it is also the Conferees' intent that no provision of Section 1412(b)(5) be interpreted to force an alteration of the negotiated agreement.

Finally, Section 104(b) of the conference agreement provides that for the purpose of promulgating Stage I and Stage II regulations for disinfection and disinfection byproducts, the consideration that the Administrator used in the development of the July 29, 1994 proposal for such regulation are to be considered consistent with section 1412(b)(5). These considerations included risk, cost, affordability, feasible technology, and health benefits. The Conferees intend with this language to ensure that the negotiators and ultimately the Administrator are authorized to consider these factors in the same manner as these considerations were used in developing the Stage I proposed rule.

In the convening process for both the negotiating and technical advisory committees for Stage II of the Disinfectant/Disinfection By-Products rulemaking, the Administrator should consider for inclusion appropriate representatives of all interested parties, including State and local governments, public water systems, public interest groups, public health organizations, and experts on chemical disinfectants, their use and alternative disinfection process and their technologies.

Arsenic (sec. 109)

The Conferees encourage EPA to work with the American Water Works Association Research Foundation (AWWARF) to carry out the study projects authorized by new section 1412(b)(12)(A) if AWWARF contributes matching funds.

Consumer confidence reports (sec. 114(a))

The Administrator may, in regulations, permit the notification requirement of subparagraph (A) to be satisfied by a means other than postal delivery, such as personal delivery or electronic mail, if the Administrator determines that the alternative means will provide equivalent notice to individual customers.

EPA regulations should include a clear statement that all drinking water, including bottled water, contains contaminants, usually at levels below the threshold that would present a health risk to humans. The presence of contaminants in drinking water does not necessarily indicate that the drinking water is unsafe for human consumption. If consumers have any questions regarding the levels of contaminants detected in their drinking water or the safety of their drinking water, they should be directed to contact either their drinking water supplier or EPA at the toll-free hotline number.

Bottled water study (sec. 114(b))

The conference agreement provides that the Administrator of the FDA shall provide a study of the feasibility of appropriate methods, if any, of informing customers of the contents of bottled water. The study is intended to provide information on the feasibility of informing customers concerning the contents of bottled water, and is not intended to prejudge the question of whether such information requirements are necessary.

Exemptions (sec. 117)

Management changes referred to in the conference agreement may include rate increases, accounting changes, the hiring of consultants, the appointment of a technician with expertise in operating such systems, contractual arrangements for a more efficient and capable system for joint operation, or other reasonable strategies to improve capacity. Restructuring changes referred in the conference agreement may include ownership change, physical consolidation with another system, or other measures to otherwise improve customer base and gain economies of scale.

Capacity development (sec. 119)

The phrase "legal authority or other means" is intended to require a State to

have the actual authority to ensure that all new community water systems demonstrate the technical, managerial and financial capacity to comply with the Safe Drinking Water Act. These could include regulations, training, and bonding requirements.

States are also to adopt and implement a capacity development strategy. This is intended to encourage States to continue to focus resources on capacity development initiatives. States are required to consider, solicit public comment on, and include as deemed appropriate by the State, a number of elements and criteria.

The Conferees do not expect that every State will adopt the same capacity development strategy and do not expect States to include elements in section 142(c) that the States determine are not appropriate. It is not expected that every State will give the same consideration to each of the elements listed in section 1420(c). Rather, the Conferees expect that, as suggested by existing State capacity development programs, State capacity development strategies developed under this section will very according to the unique needs of the State. The Conferees encourage this diversity and indicate that EPA should give deference to a State's determination as to content and manner of implementation of a State plan, so long as the State has solicited and considered public comment on the listed elements and has adopted a strategy that incorporates appropriate provisions.

Operator certification reimbursement (sec. 123)

New subsection 1419(c) requires the Administrator to provide reimbursement for the costs of training, including an appropriate per diem for unsalaried operators, and certification for persons operating systems serving 3,300 persons or fewer that are required to undergo training pursuant to section 1419. The Conferees do not consider the term "unsalaried operators" to include the persons who receive compensation at an hourly rate, professional consultants, and employees of circuit-rider programs.

State revolving loan funds (sec. 130)

The administrator is to include, in the guidance for State loan fund programs to avoid use of the funds to finance expansion of any public water system in anticipation of future population growth. The Administrator is not to preclude the use of SRF financing for facilities with the capacity necessary to meet the objectives of the Safe Drinking Water Act for the population to be served by the facility over its useful life.

States are allowed to jointly manage the corpus of the new drinking water State loan fund with other revolving loan funds. The requirement that the funds be used solely for purposes that meet the objectives of the Safe Drinking Water Act does not preclude bond pooling arrangements, including cross-collateralization, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act in the same portion as the funds are used as security for the bonds.

Estrogenic substances screening program (sec. 136)

Section 404 of H.R. 3604 as reported out of the House Committee on Commerce formed the basis for section 408(p)(3)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(p)(3) (an estrogenic substances screening program). Section 136 of the Safe Drinking Water Act Amendments of 1996 adds to the authority of the Administrator to provide for testing of substances that may be found in sources of drinking water if the Administrator determines that a substantial population may be exposed to such substances. The Conferees agree that the treatment of substances addressed under this section shall be consistent with the Report of the Commerce Committee (House Rep. 104–632, Part I, pp. 55–58).

TITLE II—DRINKING WATER RESEARCH

Clarifications made in conference

The House Committee on Commerce and the House Committee on Science have the following understanding on clarifications made in conference. This understanding has no impact on the operation of law.

In reconciling the text of H.R. 3604, the Safe Drinking Water Act Amendments of 1996, with the text of S. 1316, the Safe Drinking Water Act Amendments of 1995, the Conference Committee agreed to minor word changes, such as from "research" to "study", and citation changes and deletions, including the deletion of references in the House passed version of section 601. None of these minor changes should be considered to lessen or enhance the House Committee on Science's jurisdictional claim to environmental research involving drinking water issues. None of these minor changes should be considered to lessen or enhance the House Committee on Commerce's jurisdictional claim to biomedical research involving drinking water issues.

TITLE III—MISCELLANEOUS PROVISIONS

Transfer of funds (sec. 302)

The following represents an understanding between the House Committee on Commerce and the House Committee on Transportation and Infrastructure. This understanding has no impact on the operation of law.

The House Commerce Committee, which has jurisdiction over the Safe Drinking Water Act, and the House Transportation and Infrastructure Committee, which has jurisdiction over the Federal Water Pollution Control Act, agree to share jurisdiction over the free-standing provision in section 302 of the Safe Drinking Water Act Amendments of 1996 involving transfer of revolving loan funds. This provision allows for the transfer of funds, under specified terms and conditions, between the Safe Drinking Water State Revolving Loan Fund which is under the exclusive jurisdiction of the Commerce Committee and the Clean Water State Revolving Fund which is under the exclusive jurisdiction of the Transportation and Infrastructure Committee.

For matters directly amending section 302, the two Committees agree that each should be given equal weight in bill referrals, conference appointments, and other jurisdictional assignments. For instance, a bill to amend section 302 to increase the percentage amount that may be transferred between the two revolving funds would be in the joint jurisdiction of the two Committees. Likewise, a direct or indirect amendment to the provisions of section 302 would be in the committees' joint jurisdiction.

Enactment of this freestanding section does not give the Commerce Committee any jurisdiction over the Federal Water Pollution Control Act, nor does it give the Transportation and Infrastructure Committee any jurisdiction over the Safe Drinking Water Act. Jurisdiction for changes that amend provisions of the Federal Water Pollution Control Act or the Safe Drinking Water Act should be determined without regard to section 302. Thus, for example, a bill to change or impose conditions or limitations on the criteria applicable to a State for the receipt or expenditure of revolving funds under the Safe Drinking Water Act or Federal Pollution Control Act would be in the sole jurisdiction of the Committee on Commerce or the Committee on Transportation and Infrastructure respectively.

Washington Aqueduct (sec. 306)

The Senate bill authorized the Secretary of the Army acting through the Chief of Engineers to borrow from the Secretary of the Treasury funds necessary to make capital improvements to the Washington Aqueduct. The Washington Aqueduct provides drinking water to the three wholesale customers of the District of Columbia and the Virginia jurisdictions of Arlington County and the City of Falls Church. Amounts borrowed from the Treasury are to be repaid by the customers.

The Washington Aqueduct system consists of the Dalecarlia and McMillan water treatment plants located in Washington, D.C. The system was constructed in 1853 and is under the control of the U.S. Army Corps of Engineers for appropriate management and maintenance.

The conference agreement modifies the Senate provision to authorize for three years the Secretary of the Army to borrow from the Secretary of the Treasury funds to finance capital improvements necessary to assure continued operation of the Washington Aqueduct.

The conference agreement encourages and provides a process for the establishment of a regional entity—or the use of an existing entity—to own, operate, maintain and manage the Washington Aqueduct in a manner that fully represents all interests of the non-Federal public water supply customers. The Secretary of the Army is directed to transfer within the three year period all right, title, and interest in Washington Aqueduct after receiving the consent of a majority of the customers. The Conferees express a strong preference for a consensus among all of the customers prior to any transfer of the Washington Aqueduct under this section.

TITLE IV—ADDITIONAL ASSISTANCE FOR WATER INFRASTRUCTURE AND WATERSHEDS

The conference agreement includes the House provision regarding the national grants program for water infrastructure and watershed, with a modification to provide that $25 million per year is conditioned on the appropriation of 75 percent for the amounts authorized per year for the drinking water state loan fund. Provisions on the New York City Watershed and Alaska rural and Native villages are contained in other titles of the conference agreement.

As in the House bill, section 401(a) establishes a national program for technical and financial assistance grants for water supply systems and source water quality protection programs. The Administrator is directed to provide priority consideration to the following:

(1) Drinking water infrastructure projects for areas described in section 313 of the Water Resources Development Act of 1992 (P.L. 102–580);

(2) Construction of an alternative water supply system for the area referred to in section 219(c)(5) of the Water Resources Development Act of 1992 (P.L. 102–580);

(3) Attleboro, Massachusetts, and Worcester, Massachusetts, for ratepayer assistance relating to water infrastructure facilities, in addition to other assistance in the form of low interest loans and negative interest rates;

(4) Buffalo, New York, for construction, rehabilitation, and improvement of water treatment facilities;

(5) Bad Axe, Michigan, for connection of its drinking water system to the municipal system in Port Austin, Michigan;

(6) Georgetown, Illinois, for construction and related activities intended to increase the capacity of the City's water supply reservoir and enhance source water quality protection;

(7) Morgan County, Tennessee, for water line extensions and related infrastructure assistance;

(8) Northwest Iowa, for water infrastructure facilities that are either part of or separate from the proposed Lewis and Clark Rural Water System;

(9) Olney, Illinois for construction of new water tower and Millstone Water District, Harrisburg, Illinois for completion of Phase I of a water line extension project;

(10) Philadelphia, Pennsylvania, acting through the Fairmount Park Commission, for improvement and restoration of aquatic systems at Pennypack Park;

(11) San Bernardino County, California, for water infrastructure assistance related to the Mojave River Pipeline;

(12) Springfield, Illinois, for financial and technical assistance to complete the planning, design, and construction of a water supply reservoir;

(13) Tenino, Washington, for water supply infrastructure, including work related to wells, hydrants, and water lines;

(14) Madison, Ohio, for waterline replacement and booster station needs;

(15) Bridger Valley Joint Board, Wyoming, for the study and construction of needed improvements in the water supply system;

(16) Treasure Valley Hydrologic Project, to study the Treasure Valley aquifer system to develop a better understanding of the regional hydraulic stresses and their impacts on source waters in the Boise Basin;

(17) Beuna Borough, New Jersey, to remediate mercury levels in the water supply and to provide alternative drinking water for residents;

(18) Projects for areas described in section 219(c) (16) and (17) of the Water Resources Development Act of 1992;

(19) Berlin, New Hampshire, for a filtration plant and associated facilities;

(20) South Tahoe Public Utility District to replace the export pipeline for reclaimed water;

(21) Projects described in section 307 of the Water Resources Development Act of 1992;

(22) Cranston, Rhode Island, for a wastewater regional connector system;

(23) Funding for construction of filtration plants in Connecticut; and

(24) Perth Amboy, New Jersey, to protect the drinking water supply through multimedia programs to remediate pollution in the Runyon Watershed.

TITLE V—CLERICAL AMENDMENTS

The conference agreement makes miscellaneous technical and clerical changes.

From the Committee on Commerce, for consideration of the Senate bill (except for secs. 28(a) and 28(e)) and the House amendment (except for title V), and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,
MIKE CRAPO,
BRIAN P. BILBRAY,

From the Committee on Commerce, for consideration of secs. 28(a) and 28(e) of the Senate bill, and modifications committed to conference:

TOM BLILEY,
MIKE BILIRAKIS,

As additional conferees from the Committee on Science, for the consideration of that portion of section 3 that adds a new sec. 1478 and secs. 23, 25(f), and 28(f) of the Senate bill, and that portion of sec. 308 that adds a new sec. 1452(n) and sec. 402 and title VI of the House amendment, and modifications committed to conference:

ROBERT S. WALKER,
DANA ROHRABACHER,
TIM ROEMER,

As additional conferees from the Committee on Transportation and Infrastructure, for the consideration of that portion of sec. 3 that adds a new sec. 1471(c) and secs. 9, 17, 22(d), 25(a), 25(g), 28(a), 28(e), 28(h), and 28(i) of the Senate bill, and title V of the House amendment and modifications committed to conference:

BUD SHUSTER,
SHERWOOD BOEHLERT,
ZACK WAMP,
ROBERT A. BORSKI,
ROBERT MENENDEZ,

Provided, Mr. Blute is appointed in lieu of Mr. Wamp for consideration of title V of the House amendment:

PETER BLUTE,
Managers on the Part of the House.

JOHN H. CHAFEE,
DIRK KEMPTHORNE,
CRAIG THOMAS,
JOHN WARNER,
MAX BAUCUS,
HARRY REID,
FRANK LAUTENBERG,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. COLLINS of Illinois, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. THOMAS) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, on August 2.

Mr. ENGLISH of Pennsylvania, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, today.

Mr. GOSS, for 5 minutes, on August 2.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. TALENT, for 5 minutes, today.

Mrs. JOHNSON of Connecticut, for 5 minutes, on August 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Mr. KANJORKSKI.
Mr. LIPINSKI.
Mr. HAMILTON.
Mr. MENENDEZ.
Mr. KLECZKA.
Mr. BONIOR.
Ms. HARMAN.
Mr. CARDIN.
Mr. TORRICELLI.
Mr. CLAY.
Mr. LEVIN.
Mr. WYNN.
Mr. DELLUMS.
Mr. ORTON.
Mr. KENNEDY of Massachusetts.
Mr. SABO.
Mr. BARRETT of Wisconsin.
Mr. TOWNS.
Mr. LAFALCE.
Mr. BLUMENAUER.
Mrs. MALONEY.
Mr. BARCIA.

(The following Members (at the request of Mr. THOMAS, and to include extraneous matter:)

Mrs. SEASTRAND.
Mr. DAVIS.
Mr. HOKE.
Mr. YOUNG of Alaska.
Mr. FIELDS of Texas.
Mr. TORKILDSEN.
Mr. DORNAN.
Mr. GILMAN in two instances.
Mr. FORBES in two instances.
Mr. KOLBE.
Mr. WOLF.
Mr. PORTER.
Mr. CASTLE.
Mr. SMITH of New Jersey.
Mr. SHAW.
Mr. GEKAS.
Mr. COBURN.
Mr. COMBEST.
Mr. SOLOMON.
Mrs. MORELLA.
Mr. THOMAS.
Mr. BUNNING of Kentucky.
Mr. CAMPBELL.
Mr. ROHRABACHER.
Mr. TALENT.

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. HAYWORTH.
Mr. WALKER.
Mr. MCINNIS.
Ms. ESHOO.
Mr. HAMILTON.
Mr. RICHARDSON.
Mr. FORBES.
Mr. STUPAK.
Mr. LOWEY.
Mr. LAHOOD.
Mr. PAYNE of New Jersey.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1051. An act to provide for the extension of certain hydroelectric projects located in the State of West Virginia.

H.R. 3215. An act to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians.

H.R. 3663. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

H.J. Res. 166. Joint resolution granting the consent of Congress to the mutual aid agreement between the city of Bristol, Virginia, and the city of Bristol, Tennessee.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 1757. An act to amend the Developmental Disabilities Assistance and Bill of rights Act to extend the Act, and for other purposes.

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

S.J. Res. 20. Joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1051. An act to provide for the extension of certain hydroelectric projects in the State of West Virginia.

H.R. 3663. To amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 50 minutes a.m.), the House adjourned until today, August 2, 1996, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4491. A letter from the Acting Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 419 and H.R. 701, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-581); to the Committee on the Budget.

4492. A letter from the Assistant Secretary for Pension and Welfare Benefits, Department of Labor, transmitting the Department's final rule—Class Exemption To Permit Certain Authorized Transactions Between Plans and Parties in Interest [Application No. D-10031] received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

4493. A letter from the Managing Director, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102] received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4494. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicaid Program; Medicaid Eligibility Quality Control, Progressive Reductions in Federal Financial Participation for fiscal years 1982-1984, Payment for Physician Billing for Clinical Laboratory Services, and Utilization Control of Skilled Nursing Facility Services: Removal of Obsolete Requirements (Health Care Financing Administration) (RIN: 0938-AH31) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4495. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Israel (Transmittal No. DTC-44-96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

4496. A letter from the Chairman, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a letter making recommendations for the purpose of promoting financial responsibility in the District of Columbia government, pursuant to Public Law 104-8, section 207(a) (109 Stat. 133); to the Committee on Government Reform and Oversight.

4497. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Biological Warfare Experts Group Meeting: Implementation of Changes to Export Administration Regulations; ECCNs 1C991, 1C61B, 1B71E, and 1C91F (RIN: 0694-AB37) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4498. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Central Inmate Monitoring (CIM) System (RIN: 1120-AA43) received July 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4499. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Grants Pass, Oregon (Federal Aviation Administration) [Airspace Docket No. 96-ANM-015], pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4500. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Libby Montana (Federal Aviation Administration) [Airspace Docket No. 96-ANM-013] received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4501. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-9 and DC-9-80 Series Airplanes, and C-9 (Military) Airplanes, Equipped with a Ventral Afr Pressure Bulkhead (Federal Aviation Administration) [Docket No. 95-NM-186-AD; Amendment 39-9704; AD 96-16-04] (RIN: 2120-AA64) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transporatation and Infrastructure.

4502. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Saginaw River, MI (U.S. Coast Guard) [CGD09-96-003] (RIN: 2115-AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4503. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; City of Palm Beach, FL (U.S. Coast Guard) [CGD07-96-045] (RIN: 2115-AE46) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4504. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area: Boston Harbor, Spectacle Island, Boston, MA (U.S. Coast Guard) [CGD1-96-068] (RIN: 2115-AE84) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4505. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Ebey Slough, Marysville, Washington (U.S. Coast Guard) [CGD13-96-002] (RIN: 2115-AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4506. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Snohomish River, Everett, WA (U.S. Coast Guard) [CGD13-96-001] (RIN: 2115-AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4507. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Red River, Louisiana (U.S. Coast Guard) [CGD08-96-025] (RIN: 2115-AE47) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4508. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Safety Zone Regulation; Seafair's U.S. Navy Blue Angels Air Show, Elliot Bay, Seattle, Washington (U.S. Coast Guard) [CGD13-96-015] (RIN: 2115-AA97) received August 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4509. A letter from the National Director, Tax Forms and Publications Division, Internal Revenue Service, transmitting the Service's final rule—requirements for preparing acceptable substitute information returns to be filed with the Internal Revenue Service (IRS), and for furnishing recipient statements (Revenue Procedure 96-42) received

July 31, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee of conference. Conference report on H.R. 3448. A bill to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, and for other purposes (Rept. 104–737). Ordered to be printed.

Mr. GOSS: Committee on Rules. House Resolution 502. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Rept. 104–738). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 503. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that act (Rept. 104–739). Referred to the House Calendar.

Mr. WALSH: Committee of conference. Conference report on H.R. 3845. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1997, and for other purposes (Rept. 104–740). Ordered to be printed.

Mr. BLILEY: Committee of Conference. Conference report on S. 1316. An act to reauthorize and amend title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act", and for other purposes (Rept. 104–741). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3378. A bill to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing Medicare, Medicaid, and other third party payors (Rept. 104–742 Pt. 1). The Committee on Commerce discharged from further consideration. Referred to the Committee of the White House on the State of the Union.

Mr. McINNIS: Committee on Rules. House Resolution 507. Resolution waiving points of order against the conference report to accompany the bill (S. 1316) to reauthorize and amend title XIV of the Public Health Service Act commonly known as the "Safe Drinking Water Act", and for other purposes (Rept. 104–743). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 508. Resolution providing for consideration of a certain motion to suspend the rules (Rept. 104–744). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on Commerce discharged from further consideration. H.R. 3121 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER (for himself, Mr. SENSENBRENNER, Mr. LARGENT, Mr. WELDON of Florida, Mr. ROHRABACHER, Mr. HILLEARY, Mr. STOCKMAN, Mr. DAVIS, Mr. CALVERT, Mr. BAKER of California, Mrs. SEASTRAND, and Mr. TIAHRT):

H.R. 3936. A bill to encourage the development of a commercial space industry in the United States, and for other purposes; to the Committee on Science, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COBURN (for himself, Ms. MOLINARI, Mr. DELAY, Mrs. FOWLER, Mr. WELDON of Florida, Mr. NORWOOD, Mr. HUTCHINSON, Mr. LARGENT, Mr. SOUDER, Mr. STOCKMAN, Mr. DORNAN, and Mr. HOSTETTLER):

H.R. 3937. A bill to amend title XIX of the Social Security Act with respect to preventing the transmission of the human immunodeficiency virus, commonly known as HIV, and for other purposes; to the Committee on Commerce.

By Mr. FILNER (for himself, Mr. MONTGOMERY, Mr. EVANS, Mr. KENNEDY of Massachusetts, Mr. EDWARDS, Mr. CLEMENT, Mr. TEJEDA, Mr. BAESLER, Mr. CLYBURN, Mr. BISHOP, Ms. BROWN of Florida, and Mr. MASCARA):

H.R. 3938. A bill to amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, to strengthen preference for veterans in hiring, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FOX (for himself, Mr. STUMP, Mr. MONTGOMERY, Mr. HAYWORTH, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. DAVIS, Mr. BARR, Mr. SMITH of New Jersey, Mr. BARRETT of Nebraska, Mr. FLANAGAN, Mr. LONGLEY, Mr. SAXTON, Mr. SHADEGG, Mr. TIAHRT, Mr. FORBES, Mr. SPENCE, Mr. ENGLISH of Pennsylvania, Mr. MASCARA, Mr. McHALE, Mr. SOLOMON, Mr. DORNAN, Mr. WATTS of Oklahoma, Mr. CHAMBLISS, Mr. NORWOOD, Mr. STEARNS, Mr. HANCOCK, Mr. GUTKNECHT, Mr. CALVERT, and Mr. RIGGS):

H.R. 3939. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to offer a loan guaranted by an adjustable rate mortgage under chapter 37 of such title; to the Committee on Veterans' Affairs.

By Mrs. LOWEY (for herself, Mr. CASTLE, Mrs. JOHNSON of Connecticut, Mrs. CLAYTON, Mr. PORTER, Mrs. THURMAN, and Mrs. MORELLA):

H.R. 3940. A bill to provide for a reduction in the rate of teenage pregnancy through the evaluation of public and private prevention programs, and for other purposes; to the Committee on Commerce.

By Mr. NADLER:

H.R. 3941. A bill to designate the U.S. courthouse located at 500 Pearl Street in New York City, NY, as the "Ted Weiss United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. NEY (for himself, Mr. HOSTETTLER, Mr. SPRATT, Mr. CREMEANS, Mr. CLYBURN, Mr. GILLMOR, Mr. McHUGH, Mr. INGLIS of South Carolina, and Mr. WICKER):

H.R. 3942. A bill to amend title XVIII of the Social Security Act to permit the geographic reclassification of hospitals for purposes of disproportionate share hospital payment adjustments under the Medicare Program; to the Committee on Ways and Means.

By Mr. PETRI:

H.R. 3943. A bill to amend the Internal Revenue Code of 1986 to replace the current earned income credit and the personal exemption for children with a refundable credit for families and a refundable credit for each child, and for other purposes; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina:

H.R. 3944. A bill to permit States to enforce certain State requirements for the labeling of bottled spring water; to the Committee on Commerce.

H.R. 3945. A bill to require the Federal Communications Commission to promote additional sharing of broadcasting tower facilities to reduce the impact on local communities of station towers; to the Committee on Commerce.

By Mr. TORRICELLI (for himself, Mr. EVANS, Mr. LAFALCE, and Mr. MOAKLEY):

H.R. 3946. A bill to amend title 28 of the United States Code to provide for a remedy against the United States for claims based upon conduct involving human experimentation, to provide a remedy against the United States with respect to constitutional and human rights violations, and for other purposes; to the Committee on the Judiciary.

By Mr. TIAHRT (for himself, Mr. SOUDER, Mr. LARGENT, Mr. HOEKSTRA, Mr. COOLEY, Mr. GUTKNECHT, Mr. LIPINSKI, Mr. GRAHAM, Mr. LEWIS of Kentucky, Mr. TALENT, Mr. STOCKMAN, Mr. HUTCHINSON, Mr. BARTLETT of Maryland, Mr. ENSIGN, Mr. BARR, Mr. DORNAN, and Mr. CALVERT):

H.R. 3947. A bill to amend the General Education Provisions Act to allow parents access to certain information; to the Committee on Economic and Educational Opportunities.

By Mr. HEFLEY:

H.R. 3948. A bill to amend the Federal Water Pollution Control Act to provide for the use of biological monitoring and whole effluent toxicity test in connection with publicly owned treatment works, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. JACKSON-LEE (for herself, Mr. CONYERS, Ms. NORTON, Mr. FRAZER, Mr. FLAKE, Mrs. LOWEY, Mr. RANGEL, Mr. HASTINGS of Florida, Ms. MILLENDER-McDONALD, Ms. DELAURO, Mr. CLYBURN, Mr. HILLIARD, Mr. WYNN, Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Mrs. CLAYTON, Mr. OWENS, Mr. FIELDS of Louisiana, Mr. CUMMINGS, Miss. COLLINS of

Michigan, Mr. SCHUMER, Mr. SCOTT, Mr. PASTOR, Mrs. MEEK of Florida, Ms. BROWN of Florida, Ms. MCKINNEY, Mr. FOGLIETTA, Mr. RICHARDSON, Mr. COLEMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON, Mrs. COLLINS of Illinois, Mr. ENGEL, Mrs. SCHROEDER, Mrs. MALONEY, Ms. VELAZQUEZ, Mr. GUTIERREZ, Mr. CARDIN, Mr. SERRANO, Mr. BECERRA, Mr. GIBBONS, Mr. NADLER, Mr. KENNEDY of Rhode Island, Mr. CLAY, and Ms. LOFGREN):

H. Con. Res. 206. Concurrent resolution expressing the sense of Congress with respect to the threat to the security of American citizens and the U.S. Government posed by armed militia and other paramilitary groups and organizations; to the Committee on the Judiciary.

By Mr. THOMAS:

H. Con. Res. 207. Concurrent resolution approving certain regulations to implement provisions of the Congressional Accountability Act of 1995 relating to labor-management relations with respect to covered employees, other than employees of the House of Representatives and employees of the Senate, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H. Res. 504. Resolution approving certain regulations to implement provisions of the Congressional Accountability Act of 1995 relating to labor-management relations with respect to employing offices and covered employees of the House of Representatives, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX:

H. Res. 505. Resolution amending the Rules of the House of Representatives to take away the power of the Committee on Rules to report rules or orders waiving the germaneness requirement; to the Committee on Rules.

By Mrs. MORELLA:

H. Res. 506. Resolution expressing the sense of the Congress that all parents should be afforded the opportunity to plan ahead for their children's college education through tuition prepayment plans that guarantee college for their offspring at a fixed price; to the Committee on Economic and Educational Opportunities.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. PETE GEREN of Texas introduced a bill (H.R. 3949) for the relief of Senior Master Sergeant William L. Sullivan, U.S. Air Force; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 163: Mr. SCHIFF.

H.R. 573: Mr. MANTON.

H.R. 820: Mr. WHITFIELD, Mr. WILLIAMS, and Mr. WYNN.

H.R. 911: Mr. COMBEST.

H.R. 1406: Ms. KAPTUR and Mr. MENENDEZ.

H.R. 1462: Mr. HEFNER, Mr. TANNER, Mr. KLUG, Mr. SHAYS, Mr. LEVIN, Mr. THORNTON, Mr. SPRATT, and Mr. MONTGOMERY.

H.R. 2173: Mr. ZIMMER.

H.R. 2396: Mr. CRAPO, Mr. HEFLEY, Mr. MASCARA, Mr. JEFFERSON, Mr. ZIMMER, Mr. SCARBOROUGH, Mr. MORAN, and Mr. MANZULLO.

H.R. 2421: Mr. WALSH.

H.R. 2508: Mr. WYNN.

H.R. 2654: Mr. MILLER of California and Mr. WATT of North Carolina.

H.R. 2701: Mr. JOHNSTON of Florida.

H.R. 2741: Mr. MANZULLO.

H.R. 2757: Mr. CHAMBLISS and Ms. FURSE.

H.R. 2820: Mr. MICA.

H.R. 2822: Mr. SKEEN.

H.R. 2900: Mr. HERGER, Ms. PRYCE, and Mr. BLUMENAUER.

H.R. 2962: Mr. QUINN.

H.R. 2964: Mr. SPRATT.

H.R. 3000: Mr. BEREUTER.

H.R. 3079: Mr. OLVER.

H.R. 3117: Mr. BOUCHER.

H.R. 3142: Mr. DIAZ-BALART and Mr. BUNNING of Kentucky.

H.R. 3150: Mr. SPRATT.

H.R. 3206: Mr. FUNDERBURK.

H.R. 3207: Mrs. KELLY.

H.R. 3252: Mr. FOGLIETTA.

H.R. 3409: Ms. MCKINNEY.

H.R. 3447: Ms. FURSE.

H.R. 3477: Mrs. CLAYTON.

H.R. 3480: Mr. BALLENGER.

H.R. 3488: Mr. NADLER.

H.R. 3518: Mr. HERGER, Mr. COX, Mr. RADANOVICH, Mr. MOORHEAD, Mr. FAZIO of California, and Mr. RIGGS.

H.R. 3521: Mr. JOHNSTON of Florida.

H.R. 3560: Mr. LIPINSKI.

H.R. 3576: Mr. JACOBS, Mr. HAMILTON, Mr. VISCLOSKY, Mr. MYERS of Indiana, and Mr. MCINTOSH.

H.R. 3609: Mr. FRANK of Massachusetts and Mr. RANGEL.

H.R. 3630: Mr. CALVERT.

H.R. 3647: Mr. PETE GEREN of Texas.

H.R. 3693: Mr. HINCHEY and Mr. FIELDS of Texas.

H.R. 3700: Mr. GOODLATTE and Mr. BOEHNER.

H.R. 3710: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. STEARNS, Mr. COSTELLO, Ms. DANNER, and Mr. POMEROY.

H.R. 3713: Mr. MANTON, Ms. KAPTUR and Mr. JOHNSTON of Florida.

H.R. 3724: Mr. TORRICELLI.

H.R. 3729: Ms. BROWN of Florida.

H.R. 3747: Mr. FROST and Mr. FLAKE.

H.R. 3748: Mr. STUDDS.

H.R. 3753: Mr. OBERSTAR and Mr. SMITH of Texas.

H.R. 3757: Mr. EVANS.

H.R. 3792: Mr. HAYWORTH.

H.R. 3839: Ms. DANNER and Mr. COYNE.

H.R. 3841: Mr. DAVIS.

H.R. 3849: Mr. COLLINS of Georgia and Mr. GILMAN.

H.R. 3872: Mr. ENGLISH of Pennsylvania, Mr. SOLOMON, and Mr. WELDON of Pennsylvania.

H.R. 3905: Mr. WATTS of Oklahoma and Mr. LIPINSKI.

H. Con. Res 200: Mrs. MYRICK, Mr. HUNTER, Mr. ENGLISH of Pennsylvania, Mr. KIM, Mr. MANTON, Mr. PORTER, Mr. HALL of Texas, and Mr. SAXTON.

H. Res. 266: Ms. WOOLSEY, Ms. LOFGREN, Ms. NORTON, Mr. RADANOVICH, Mr. EVANS, Mrs. SCHROEDER, and Mr. ACKERMAN.

H. Res. 484: Mr. WYNN, Ms. FURSE, AND Mr. SPRATT.