SENATE—*Thursday, April 5, 1984*

(Legislative day of Monday, March 26, 1984)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable GORDON J. HUMPHREY, a Senator from the State of New Hampshire.

Mr. HUMPHREY. Our prayer this morning will be offered by the Reverend James W. Chapman, minister, the Bath church, United Church of Christ, in Bath, Ohio.

Prior to his present ministry, he served 23 years as an Air Force chaplain. Reverend Chapman is sponsored by Senator MARK HATFIELD.

PRAYER

The Reverend James W. Chapman, minister, the Bath church, United Church of Christ, Bath, Ohio, offered the following prayer:

Will you join me in a word of prayer?

Eternal God, Creator and Sustainer of each person and each nation, we bow to acknowledge Your sovereignty over us as a people. We know that whatever we do that is not within Your will is futile and counterproductive. We know as well that that which is Your will for us abounds beyond our wildest hopes.

Your revelation of Yourself to us has been enough that we know quite well what You would have us do. We understand the goals that you have set before us. We have articulated them in majestic terms in our national documents. So we do not so much pray for wisdom and understanding as we do for courage to do that which we already comprehend.

Having received Your directions for our lives, let us have the humility to put aside selfish goals in preference for those unselfish ones which best serve Your kingdom. If we can do that, then we shall be known not for personal achievement, but for the shared good of all our people, and through them, the well-being of the wide world around us. In the name of Jesus Christ I pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 5, 1984.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GORDON J. HUMPHREY, a Senator from the State of New Hampshire, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

COMMENDATION OF THE VISITING CHAPLAIN

Mr. BAKER. Mr. President, first I wish to commend our distinguished visiting chaplain today. We are delighted to have him with us in our presence. He is another in a long line of distinguished ministers who have served as our visiting chaplain, and he adds to the distinction of that group.

I also wish to thank Senator HATFIELD for inviting him to perform this function today.

May I say parenthetically that his loud resonant voice must surely have been heard by all in this room, and no doubt commands the attention of those who are not in the Chamber at this moment.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the two leaders are recognized under the standing order, there will be a period for the transaction of routine morning business until 10:30 a.m., at which time the Senate will resume consideration of the supplemental appropriations bill which is the unfinished business.

I anticipate that the Levin amendment will be offered shortly after we convene. I understand that a reduced time has been agreed to by the managers and Senator LEVIN to provide for 40 minutes equally divided. I am not sure that has been formalized, but it was my understanding last evening that it had been agreed to.

After that, Mr. President, I anticipate that my colleague from Tennessee, Senator SASSER, will offer an amendment dealing with Honduras. It is hoped that the 4 hours allotted for that amendment can be substantially reduced. I conversed with Senator SASSER last evening about that, and I am encouraged to think that we may be able to negotiate a shorter time limitation. That has not been done yet.

There are other amendments, Mr. President, that may be offered. But in any event, it is the hope of the leadership on this side that we can finish the supplemental appropriations bill today. The Senate is on notice of, and should be prepared for, a late session today, if necessary, in order to accomplish that purpose.

In addition, Mr. President, as I have advised the minority leader previously, it is the hope of the leadership on this side that we could then proceed to the small reconciliation bill, so-called. I will discuss that further with the minority leader in the course of the morning, but I would reiterate that hope.

Mr. President, as I see it now, the Senate will be in session tomorrow and perhaps on Saturday, as I indicated earlier this week. But if we can finish the supplemental, and if we can finish the small reconciliation bill, there is a possibility at least that we could avoid the Saturday session, and perhaps even a part of the Friday session. But once more, I will discuss that with the managers and most especially with the minority leader.

SPECIAL ORDER REQUESTS

Mr. BAKER. Mr. President, I believe the only other announcement that I should make at this time is this: There are a number of Senators who had requested special orders for this morning. Since we did not recess until late last night, I asked those Senators—I believe there are eight of them—to postpone their requests for special orders.

We will try to accommodate those requests later today or, if not today, then tomorrow. I offer my apologies to those Senators for not providing special order time this morning. But I think they surely do understand that after a late evening, with the 10 o'clock convening hour this morning, and the necessity to try to finish the supplemental appropriations bill that it would have delayed beginning consideration of that bill very substantially.

So I express my appreciation for the willingness to forego special orders this morning. I assure the Senators

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

that I will make provision for that either later today or tomorrow.

Mr. President, I do not think I have any further need for my time under the standing order. I see no other Senators seeking recognition. I offer my remaining time to the minority leader.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the minority leader is recognized.

Mr. BYRD. I thank the Chair.

May I ask whether my friend from Wisconsin, Mr. PROXMIRE, will need additional time?

Mr. PROXMIRE. I would appreciate it; if I could have 4 or 5 minutes, it would be very helpful.

Mr. BYRD. Mr. President, I yield 5 minutes of my time to the distinguished Senator from Wisconsin (Mr. PROXMIRE) and I yield the remaining minutes back to the distinguished majority leader in the event that he would have some use for the time.

Mr. BAKER. Mr. President, I thank the Senator.

Before the Senator from Wisconsin begins, may I say that the Senator from California (Mr. WILSON) was one of the eight Senators who had requested special order time. He now tells me that he needs about 2 minutes. So after the Senator from Wisconsin speaks, I propose to yield 2 minutes of the time remaining under the standing order to the Senator from California.

RECOGNITION OF SENATOR PROXMIRE

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

DO THE NUCLEAR SUPERPOWERS—THE UNITED STATES AND THE SOVIET UNION—HAVE MUTUAL INTERESTS?

Mr. PROXMIRE. Mr. President, the United States and the Soviet Union have a single overwhelmingly important mutual interest—the prevention of nuclear war. A nuclear war between the superpowers would destroy both countries utterly. So what are these two nuclear giants doing together to prevent that final and absolute catastrophe? Both are relying on the old conventional war thesis that in a world of infinite military power only more and more power can provide genuine security, safety, and peace. How ironic! From what source comes the greatest threat to human life? Answer: From the appalling and growing power of nuclear arms.

So on what do both sides—both nuclear superpowers—place their reliance for peace in this nuclear world? Answer: More nuclear arms. Of course, there is a simple, primitive, and very partial wisdom in this mutual nuclear buildup. Both sides are, indeed, building and refining and increasing an evermore awesome nuclear deterrent. Leaders on both sides have expressed increasing understanding of the utter insanity of nuclear war. Both know that a superpower nuclear war would have destroyed both sides 25 years ago. They know that destruction would have been ever more complete 10 years ago. They know it would be totally devastating today. They also know that as the years roll on into the future the force of that destructive nuclear power marches ever closer to the extermination of the human species. The realization of the absolute and total destructiveness of nuclear war today has become at the moment the single most compelling contribution to peace. So why is this not enough? Mr. President, if we coud find a way of stopping the nuclear arms race on this very day, freezing it, then we could count on this nuclear deterrence to provide some basis for continuing nuclear peace. But we are nowhere near such an agreement.

In fact, at this moment arms control talks between the United States and the Soviet Union have stopped. Our President has not talked directly in person about anything with the Soviet leader for more than 3 years. There is no indication that arms control talks will resume any time soon. And suppose they do resume—would they give any promise of stopping the arms race? Certainly not on the course they were moving when they were suspended. Why not? Because they did not touch the nuclear arms technological race. There were no negotiations under way to stop testing.

SALT/START negotiations did limit the number of new missiles that could be flight tested, but even if both powers reached full agreement on all the issues on the table in the START and IMF talks, the technological race speeds on, leaving deterrence unfortunately in the dust.

The nuclear arms technology developments threaten to bring on nuclear weapons in the next 10 or 15 years which will enable one side or the other to believe that it has the capacity to literally win a nuclear war. As Leslie Gelb, the New York Times nuclear expert, wrote recently the nuclear deterrence that has kept the peace for the past 35 years may vanish, anquished by nuclear arms technology progress.

And less than 16 years from now—by the year 2000 some 31 nations will—according to estimates by our military experts—have nuclear arsenals, unless two things happen. First, we must stop the nuclear arms technology race that is moving toward precisely the kind of weapons that smaller nations can afford: small, portable, and still infinitely lethal. Second, we must get serious about stopping nuclear proliferation. If the United States and the Soviet Union cooperate to use our joint economic power we have the ability to stop this spread of nuclear weapons beyond the six or eight nations that presently have nuclear capability.

So, again what mutual interests do the United States and the Soviet Union have? As I said at the beginning of this speech the dominating mutual interest is to prevent nuclear war. And that means that both nations have a deep interest in stopping the arms race. Of course, that will require the resumption of the broken-off arms control talks. It will require that the talks expand greatly to include a mutual and verifiable freeze on the testing, manufacture, and deployment of all nuclear arms. And it will mean that the negotiators agree to put their full resources into stopping nuclear proliferation using the economic power of both countries in a full court press to stop any export that would enable even one additional country to develop a nuclear arsenal.

Mr. President, while the U.S. Expeditionary Force did engage in hostilities in 1918 with Russia, as President Reagan recently pointed out our country has never been engaged in a major war with the Soviet Union.

We forgot as the Common Cause Guide Understanding Nuclear Weapons Policy points out that there are 75 United States-Soviet bilateral agreements at present on environmental cooperation, health, housing, agriculture and energy, maritime affairs, trade, commerce, and aviation. In addition over 500 U.S. corporations have signed agreements with the Soviet Union for commodity sales and scientific and technological exchanges of nonstrategic goods. We now have a thriving grain trade with the Soviet Union. So we have something to build our agreements on. Will the Soviets keep such agreements? Yes; for two reasons. First, they have as strong an interest in preventing nuclear war as we do. Neither of us has a death wish. Both of us want to survive. Second, we can craft agreements, as I established in my speech on the floor of the Senate when I last spoke on this issue, that we can effectively verify.

THE BAFFLING LACK OF SENATE ACTION FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I stand before you today, as I have nearly every day that Congress has been in session since 1967, to urge the Senate to support the Genocide Convention.

There has been no human rights treaty that has been subject to more detailed scrutiny than the Genocide Convention. Every line, every word, and every syllable has been studied and reviewed and debated.

Over the years, the legitimate questions raised regarding this convention have been carefully and conclusively refuted.

Since 1948, approximately 86 nations have become parties to the Genocide Convention. The United States actively participated in drafting the terms of the convention and in securing its adoption by the General Assembly. And yet, we still abstain from becoming a party to this most important treaty.

Here is a treaty that has the complete support of a long line of Presidents, both Democratic and Republican alike, and has the endorsement of every branch of the Armed Forces. The list of supporters goes on and on, but the Senate has yet to act.

Its purpose is quite clear. The Genocide Convention attempts to safeguard under international law the most fundamental human principles—the right to live.

What could be more basic? What could be more consistent with fundamental American principles?

Mr. President, the long delay in Senate action must be baffling to our allies and a delight to those who wish us ill in the world. It is time that we eliminate this confusion. It is time that once again America resume its leadership in the forefront of the human rights movement.

Through ratification of the Genocide Convention we will lend our support to the most fundamental of human rights—the right of all national, ethnic, racial, and religious groups to live. But ratification will convey an even stronger message: It will demonstrate that America is determined to back its words with actions and will strengthen our hand in protesting the numerous violations of human rights that continue to plague our world.

The Genocide Convention will not be a panacea for the human rights violations of the world but an important step in the right direction.

Mr. President, I urge my colleagues to join me in seeking ratification this year.

Mr. President, I thank the minority leader for having yielded.

The ACTING PRESIDENT pro tempore. The Senator from California.

FAT CATS AND DEMOCRATS

Mr. WILSON. Mr. President, the press of business in the Senate these last few days has been such that very probably a number of my colleagues may have missed the opportunity to read and digest a leading editorial that appeared in yesterday's Wall Street Journal. It is an editorial entitled "Fat Cats and Democrats," and takes note that two big events recently occurred in Latin America. The first was the U.S. Treasury decision to back a $300 million bridge loan to Argentina so that that nation may make its interest payments to Western banks.

The second was the Presidential election in El Salvador.

As the editorial states, the juxtaposition of these events gives Americans and the United States an opportunity to think about the ways people in the rest of the world may think of us as America the fat cat and America the democrat.

The editorial goes on to state that:

> But if you were a citizen of Central or South America reading news accounts of the Argentine loan and the Salvadoran elections, we suspect your view of the North Americans, as they call us, would be that we're reliable fat cats but only fair weather democrats.

Mr. President, I commend this editorial, not just to those in the Senate but perhaps even more so to our colleagues in the House.

The editorial notes the sad fact that there has not been a full vote of the Congress, in fact, it says:

> Surprisingly, the full Senate and House have not voted on Salvadoran aid since fall of 1981.

It goes on to note that, by default, expression of congressional policy has been made by speeches of individual Senators, but by no concrete floor action which would express the view of this body or the House of Representatives.

It then scolds us, quite properly, and says, "The full Congress should not allow this state of affairs to persist."

Mr. President, I quite agree. I think we have had a useful debate here in this body for the past week or so. There have been a number of votes, some on words and some on money. But finally, at least, this body has acted with respect to specific measures that relate to our aid to democracy as it is burgeoning in El Salvador.

I hope that the House will take to heart the admonition given by the Journal in an editorial that deserves our attention. I hope that they will act as this body has, after full debate but will act, because I think it is deplorable that we have not seen a vote since the fall of 1981.

Mr. President, the time for debate has passed. The time for action is now, if we are not to be seen as second-class democrats, as those who speak volumes about democracy but take our own for granted and will not provide sufficient protection for those who are struggling valiantly to secure their own.

It is time for the Congress of the United States, indeed, to act fully, to act promptly, and dispel the image that is so clearly outlined in this editorial.

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

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

FAT CATS AND DEMOCRATS

We have had two big events recently in the ongoing melodrama called Latin America. The first was the U.S. Treasury's decision to back a $300 million bridge loan to Argentina so it could make its interest payments to Western banks. The second was the presidential election in El Salvador. The juxtaposition of these events gives Americans in the U.S. an opportunity to think about the ways people in the rest of the world may look at us—as America the fat cat and America the democrat.

Despite all the U.S.'s extraordinary economic success, most Americans here would probably give rein to their native idealism and prefer that the rest of the world look to the U.S. mainly as a model of the possibilities of the democratic tradition. But if you were a citizen of Central or South America reading news accounts of the Argentine loan and the Salvadoran elections, we suspect your view of the North Americans, as they call us, would be that we're reliable fat cats but only fair-weather democrats.

The Argentine loan crisis, like its predecessors, made it clear that if you're sitting in Buenos Aires, the only serious thing you have to keep in mind about America the fat cat is that it's the one country in the world that can and will pump $300 million out of something called the Export Stabilization Fund. The United States, as a superpower, is supposed to stand for something significant, but the Argentine loan deal, so seemingly protective of a handful of banks' first-quarter earnings, makes the U.S. look mainly like something resembling the Dutch East India Company.

But we are a big nation with many interests, and the El Salvador election ought to have been an opportunity to put our best foot forward. To date, that is an opportunity that has been taken poorly or halfheartedly.

Last week 1.3 million of a possible 2.5 million Slavadorans voted. One major piece of U.S. newspaper analysis of the election carried this headline: "Salvador Vote Settles Little at Home or in Washington." Sen. Chris Dodd said of the Salvadoran election: "The centers of power in El Salvador will remain the same the day after the election as the day before." Mr. Dodd favors negotiating some sort of settlement with El Salvador's antidemocratic guerrillas. Before the election, a Washington Post editorial suggested "intrusive policies may have to be followed to ensure the victory, and then the seating, of Christian Democrat Napoleon Duarte." Meanwhile, Gary Hart and Walter Mondale compete to see who would jerk U.S. troops out of Central America faster. Mr. Hart argues that our military presence will push us into "another unwinnable war," which isn't quite accurate. When we pull out, a freshly resupplied communist insurgency will roll up El Salvador and its voters like an old carpet.

Then we have both the speaker of the House and a Democratic senator from Tennessee demanding to know whether the War Powers Act is violated if U.S. planes stationed in Honduras signal the Salvadoran

army the whereabouts of its enemy, or if U.S. military advisers find themselves directly in the guerrillas' line of fire.

This Monday, however, the U.S. Senate defeated by a lopsided margin (63-25) attempts to drastically cut a $61.7 million emergency aid package for El Salvador. How is one to square this support for El Salvador with the unrelenting criticism the place seems to get from Congress? Well, surprisingly the full Senate and House have not voted on Salvadoran aid since fall 1981. By default, the entire Central American debate has been framed by publicity given the authorizing subcommittees of Senate Foreign Relations and House Foreign Affairs, whose legislative proposals have been so extreme the leadership won't bring them to a floor vote. But the members and staffs of these subcommittees are creating the impression that this country regards democratic elections as just another policy blip, no more or less important than aid conditionality or the subsections of a War Powers Act no three people agree on.

The full Congress should not allow this state of affairs to persist. Good-faith efforts to restore the democratic process in places such as El Salvador deserve united praise and support, not yawns and derision. The alternative is allowing ourselves to become known primarily for our skill at matters like Argentina's overdue interest. We become just the latest mercantile nation that at some point in history happened to have enough money to roll over other people's debts.

Mr. BAKER. Mr. President, how much time remains under the standing order?

The ACTING PRESIDENT pro tempore. Two minutes thirty seconds.

Mr. BAKER. Mr. President, I yield 2 minutes to the distinguished Senator from Wisconsin.

VOTING PRACTICES IN THE UNITED NATIONS—GRENADA

Mr. KASTEN. Mr. President, today I am giving my fourth speech on the voting practices of member countries in the United Nations.

As I indicated in my first statement on April 2, I am using as background for my speeches the first annual report that Congress mandated last year. This law, that I am proud to have authored, requires the Secretary of State and the Permanent Representative to the United Nations to report to Congress each year on voting practices in the world body.

The first annual Kasten report is now available through the Senate Appropriations Committee and is entitled "Foreign Assistance Appropriations, 1985—Part 3."

Americans for the first time ever can now review important votes in the United Nations and see how recipients of U.S. foreign aid voted on issues critical to U.S. foreign policy.

I am focusing this series of speeches concerning voting practices on a separate key issue or cluster of issues that came before the U.N. General Assembly or the Security Council last year.

Today I will review the U.N. General Assembly vote on the rescue of Grenada by the United States and the Organization of Eastern Caribbean States. This action of the OECS and of the United States in Grenada last October first was greeted with much partisan argument in this Congress. Very shortly after the initial shock of news of the action, however, bipartisan factfinding missions from the Congress were able to bring about remarkably strong consensus that the joint U.S. OECS action had been legally and morally justifiable.

Congressional factfinders who visited Grenada shortly after order had been restored on the island discovered that the American and Eastern Caribbean forces had truly been welcomed by the mass of Grenadians with open arms. Even most of those in Grenada who had supported the regime of the Marxist Maurice Bishop regarded the intervention as a rescue.

The people of Grenada were aware that the Prime Minister and most members of his Cabinet had been murdered in cold blood by thugs calling themselves revolutionaries. The people knew that these same thugs were also threatening to shoot anyone on sight caught violating a 24-hour-a-day curfew. Facing the same peril were more than 1,000 Americans in Grenada, mostly students.

The ranking minority member of the House Foreign Affairs Committee, Representative BILL BROOMFIELD, remarked after the completion of the bipartisan congressional factfinding mission: "I am absolutely convinced that had the United States not intervened, inaction would have been comparable to playing Russian roulette with the lives of more than 1,000 Americans on the island."

While the majority of Members of Congress from both parties drew their conclusions about the Grenada events after thoughtful examination of the facts, a wholly different judgment of the Grenada affair was made by majorities in the United Nations. A majority of U.N. Security Council members voted in favor of a draft resolution condemning the action as a "flagrant violation of international law." The resolution was vetoed by the United States.

After that, the General Assembly, where no one member has veto power, seized the issue as a matter of emergency. In its rush to judgment, the General Assembly approved a resolution in which it adopted the language of the Draft Security Council resolution. One hundred and eight U.N. members voted for that General Assembly resolution. Only nine, including the United States, the nations of the organization of Eastern Caribbean States, El Salvador and Israel voted against it. Twenty-seven countries abstained.

Before this lobsided vote, an even more outrageous event occurred. A gag rule was imposed to prevent the United States and its Eastern Caribbean partners from even presenting their case. This, mind you, occurred in the U.N. General Assembly, a forum where debate on other subjects, such as Israeli "aggression and denial of human rights," streams on endlessly.

A procedural motion to cut off debate was proposed by the totalitarian regime that calls itself Democratic Yemen. Also known as South Yemen, Democratic Yemen is unambiguously a colony of the Soviet Empire. The gag rule was approved, by a vote of 60 in favor, 54 opposed—including the United States and most of the democracies—and 24 abstaining.

Mr. President, the recent Kasten report on voting practices in the United Nations issued earlier this year by the State Department documents that none of our NATO partners joined us in opposing the General Assemby resolution that condemned the Joint U.S.-OECS rescue mission. Some abstained, including the United Kingdom, Canada, the Federal Republic of Germany, and Turkey. Our strategic allies, France, Italy, Greece, and Spain, on the other hand, voted in favor of the resolution.

So few U.N. members voted with us on the substantive resolution denouncing our action in Grenada that it goes without saying that most U.S. military allies and the vast majority of beneficiaries of U.S. economic assistance were among those failing to support our position.

The close vote on the gag rule motion provides better drawn lines. Our NATO allies were nearly unanimous in opposing the gag rule. From among them, only Greece voted to cut off debate, while Spain cast the only abstention. The Soviet Union and its captive nations in Eastern Europe formed a solid bloc for the gag rule. Most of the Latin American and Caribbean states, on the other hand, voted to keep debate open. Disturbing exceptions within that region, besides the predictable ballots of Cuba and Nicaragua, were Argentina, Brazil, Colombia, Mexico, and Panama.

In Africa, only a few very close friends of the United States voted to permit debate: The Ivory Coast, the Sudan, Liberia, Togo, Somalia. In the Middle East, Asia and the Pacific, democracies such as Australia and Japan were joined by western-oriented governments of the Association of South East Asian Nations and the South Pacific islands in favor of permitting debate. India and Sri Lanka, alone among the Asian democracies, joined the Communists and other nondemocratic regimes of the region in voting for the gag rule.

Mr. President, there is simply no evading the fact that in the treatment of Grenada, the United States found itself with serious problems in its relations not only with traditional foes, but also with most of our better friends in the United Nations. These are problems which, of course, extend beyond the United Nations and related to the nature of and cooperation with our allies. But the event also demonstrates how serious is the crisis of fidelity to the principles of the U.N. Charter among U.N. members.

One only need note that the U.N. condemned the U.S.-OECS action in Grenada in substantially more vigorous terms than it ever has used to condemn Soviet aggression in Afghanistan. Indeed, the term "aggression" was never used in the Afghanistan resolution, nor was the term "condemn," nor was the Soviet Union ever mentioned by name in any of the operative paragraphs of the resolution. In a subsequent speech, I will have more to say about the notion of "moral equivalence of the superpowers" which unfortunately has become all too prevalent.

The Professional Community of International Lawyers, Mr. President, for the most part has agreed that the U.S. action in Grenada was compatible with international law. Most legal experts concur with the commonsense of most Americans, that the use of American power was appropriate and reasonable under the unique combination of circumstances that had prevailed in Grenada.

The professional legal judgment is excellently expressed in an article in the January 1984 issue of "The American Journal of International Law," entitled "Grenada and the International Double Standard." The article's author is Prof. John Norton Moore of the University of Virginia, a member of the Journal's board of editors. Professor Moore argues on the basis of factual evidence and international law that the Grenada intervention was altogether legal. Moreover, he warns that "an international double standard is eroding the foundations of the international legal order."

The League of Nations failed, Mr. Moore writes, "In part because the international community timidly ignored the mounting aggressive threats to international order. A repeat of the league collapse—and the subsequent descent into international anarchy—is simply unthinkable in the thermonuclear world. To avoid the unthinkable, the international community must abandon the international double standard and rigorously apply the great principles of the United Nations Charter."

Professor Moore's words succinctly describe the crisis of the United Nations. Although the crisis is not limited to voting behavior, we may gain very illuminating information on the crisis from the State Department's analysis of key votes from last year's General Assembly. Tomorrow I shall speak on how the crisis of the United Nations is exemplified in votes on resolutions concerning illegal use of chemical weapons.

Mr. President, I will ask unanimous consent that a table showing those countries which voted against the U.S. position on these issues and are scheduled to receive U.S. foreign assistance in fiscal year 1985 be printed in the RECORD at the conclusion of my remarks. It should be pointed out that the table does not include those countries which abstained, even though in some cases an abstention can be interpreted as a vote against our position. Those countries which voted against our position on both of the issues I talked about today appear with an asterisk next to their names. The table also shows the proposed U.S. bilateral foreign assistance for each country for fiscal year 1985, the current year levels of assistance and the historic levels of assistance from 1946 through the fiscal year 1985 proposal.

I ask unanimous consent that the table to which I referred be printed in the RECORD.

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

[Dollars in millions]

	Fiscal year—		1946–85
	1985	1984	
Africa:			
Equatorial Guinea	1.8	1.8	7.1
Swaziland	9.8	10.0	92.9
Niger	33.1	28.4	247.5
Egypt	2,170.3	2,504.3	18,497.9
Somalia	120.1	109.9	697.4
Lesotho*	18.9	19.8	180.1
Zambia*	30.0	28.6	326.4
Botswana*	22.6	25.1	219.5
Mauritius	5.7	5.7	52.5
Guinea*	12.0	5.7	203.4
Burundi*	7.2	6.9	59.5
Mauritania*	11.1	12.7	124.4
Comoros	0.8	1.1	3.7
Zimbabwe*	30.2	40.0	267.0
Ghana*	10.2	21.0	473.2
Mali*	14.1	12.7	219.1
Tanzania*	3.1	11.0	350.7
Upper Volta*	19.0	16.9	234.3
Uganda*	10.1	9.1	97.0
Seychelles*	2.4	2.5	14.0
Cape Verde*	5.8	6.4	67.0
Benin*	3.0	3.0	65.8
Sao Tome*	0.2	0.7	3.5
Madagascar*	10.3	9.3	71.0
Guinea Bissau*	2.9	2.8	34.6
Algeria*	(1)	.....	203.3
Congo*	1.1	3.0	21.3
Ethiopia*	3.7	6.4	688.1
Angola*	0.2	2.0	18.4
Mozambique*	(1)	6.2	82.3
Asia:			
Thailand	143.1	145.1	3,022.5
Singapore	(1)	(1)	22.1
Papau New Guinnea	0.9	0.9	3.4
Pakistan	632.0	583.3	7,743.1
Nepal	18.3	17.1	353.7
Burma	20.3	17.3	275.2
Malaysia	11.0	11.1	288.5
Indonesia	155.4	149.2	3,947.4
Bangladesh	180.2	164.5	2,250.0
Maldives	(1)	(1)	(1)
Bhutan	0.6	0.9	4.0
Sri Lanka*	74.3	72.6	880.4
Jordan	117.1	136.7	2,871.0
Cyprus*	3.0	15.0	211.3
Yemen Arab Republic	47.8	37.1	305.7
India*	212.3	224.1	11,411.4
LAC:			
Uruguay	0.1	0.1	249.8
Costa Rica	219.9	192.1	971.9
Peru	78.3	67.4	1,292.7
Bahamas	(1)	.....	0.3
Dominican Republic*	111.1	92.9	1,094.9
Venezuela	(1)	(1)	353.8
Trinidad-Tobago	(1)	.....	40.9
Ecuador	18.2	21.9	615.4
Bolivia	52.5	42.3	1,067.7
Colombia*	19.2	11.3	1,657.5
Brazil*	0.3	0.1	3,068.8
Suriname	0.1	(1)	6.5
Panama*	60.3	62.0	603.9
Mexico*	9.2	8.7	386.7
Guyana*	(1)	0.3	130.4
Grenada*	0.3	15.2	15.5
Europe:			
Portugal	208.0	147.4	1,980.4
Austria	0.1	0.1	1,257.1
Spain	415.0	414.4	4,063.8
Greece*	501.7	501.4	7,286.3
Finland	0.1	0.1	57.4
Yugoslavia*	0.2	0.1	2,832.5

*Less than $50,000.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there is a period for the transaction of routine morning business ordered until 10:30 this morning. Senators are reminded that at 10:30, the Senate will resume consideration of the supplemental appropriations bill. I urge the managers of that bill to be here on the floor so we can get an early start. I anticipate that the Levin amendment will be the first amendment offered when we resume consideration of that measure.

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

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period now for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with statements therein limited to 2 minutes each.

TRAVELERS INSURANCE: RECIPIENT OF SMALL BUSINESS DEVELOPMENT AWARD

Mr. WEICKER. Mr. President, the Small Business Administration recently awarded the Travelers Companies, the insurance giant in Hartford, the first Small Business Development Award for Connecticut.

The award was established to recognize the role that large businesses play in supporting the growth of small companies. For years, the Travelers has been known in the small business community for the unique opportunities that it offers small firms. It operates an extensive support system for 10,000 small businesses—independent insurance agencies. The Travelers assists these companies through counseling, financing, investment, and training. Further, as the SBA stated in its announcement of the award, the Trav-

elers was singled out because of its socially responsible investment program, its corporate giving effort, corporate purchasing policy (including a special minority purchasing program), and its real estate and venture capital investments.

Mr. President, as those who have known and worked with the Travelers realize, this company has always been socially concerned and involved in the development of small enterprises. I commend SBA for making this award and congratulate the Travelers Companies wholeheartedly for their work.

ORDER OF BUSINESS

(Later, the following occurred:)

Mr. STEVENS. Mr. President, I yield such time as the distinguished Senator from West Virginia, who has an important announcement to make about an event that took place in this town 40 years ago, wishes up to 5 minutes.

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

PROGRESS IN SYNFUELS

Mr. RANDOLPH. Mr. President, I am grateful to the able assistant majority leader, the Senator from Alaska (Mr. STEVENS), for yielding to me for the purpose of calling the attention of my Senate colleagues, the Members of the Congress generally, and to the country as a whole.

On that historic date, President Franklin Roosevelt signed the first Synthetic Liquid Fuels Act into law. I introduced that bill, H.R. 3209, in the fall of 1943. It allowed our Government to provide incentives and encourage a new and necessary industry over the threshold. It mandated development of new technologies to produce methanol and other liquid fuels from coal, ethanol from agricultural wastes, and oil shale.

Mr. President, I speak with sadness. The progress which I dreamed would come from the use of synthetic fuels has not taken place. Of the modest sum of $52 million appropriated in the 1940's, $3 million was returned to the U.S. Treasury in the midfifties.

I speak of a bill signed 40 years ago, and of the shortsightedness of this country in failing to provide a synthetic liquid fuels program during the years that followed. And even today, with an oil glut, who knows what will happen in a year? We do know what happened when OPEC hit us in 1973 and 1979. We experienced firsthand the long line of cars, that either could not get to the gas pumps or were turned away because of lack of supply once they reached those pumps.

Mr. President, I am in earnest now as I discuss this failure to meet a challenge with a sound program brought into being by the Congress, which was permitted by the Congress to be terminated.

To emphasize the importance of synthetic fuels to the Nation, on November 6, 1943, I flew in a Fairchild 24 from Morgantown to Washington, D.C., on about 80 gallons of coal-derived fuel. That fuel was processed at a small laboratory outside of Pittsburgh. The flight was piloted by Arthur Hyde, a native of Moorefield, W. Va.

Last year on November 6, I circled the field at the Morgantown airport in a Fairchild 24 to symbolize the 175-mile flight made 40 years earlier. Unfortunately, it was again to highlight the need to create a domestic synfuels industry. We were able to secure only one-half gallon of coal derived fuel for the flight.

The first flight in 1943 followed hearings I chaired in the House Subcommittee on Coal in 1942. It led to the passage of the Synthetic Liquid Fuels Act in 1944. By 1947, a memorandum circulated within the Interior Department which foresaw 5 years later, a federally subsidized synthetic fuels industry able to produce 2 million barrels of oil a day.

President Truman in 1949 continued Roosevelt's initiative. During his term of office two producing synthetic fuel plants were constructed in Missouri which turned coal to an assortment of petroleum products. The New York Times reported we were—

* * * on the threshold of a profound chemical revolution. The next ten years will see the rise of a massive new industry which will free us from dependence on foreign sources of oil.

Unfortunately, this never happened. Why? Because, in 1955 the decision was made to eliminate all Government involvement in coal gasification and other alternative energy projects. President Eisenhower ordered the program ended on the assumption if needed, private industry would anticipate and correctly respond to assure the Nation had adequate fuel supplies.

In 1978, President Carter urged and Congress passed the first body of law which could be viewed as a national energy policy. In 1980, the Energy Security Act was approved as a second phase of our national energy plan to develop a viable synthetic fuels industry. The new act provided authorization for a beginning phase of $20 billion, and a second phase allowing for $68 billion to be used to create a synthetic fuels industry. Thus, we had again created the potential to recapture the initiative provided initially on April 5, 1944. I am convinced if that administration had continued we would now be breaking ground for a number of plants to provide alternative fuels for the Nation. But we did not continue this innovating, exciting, and crucial energy course. We saw history repeat itself in negative fashion.

Today, the Organization of Petroleum Exporting Countries (OPEC), has the capability to produce 35 million barrels of oil per day with essentially no capital investment. In 1983, OPEC production was less than 15 million barrels per day. U.S. production is approximately 10 million barrels daily of crude and natural gas liquids. OPEC has idle twice the U.S. capability to provide petroleum.

To produce 8.5 million barrels each day of crude and 1.5 million cubic feet of natural gas, the United States has 580,000 oil wells and over 200,000 gas wells. Approximately 80,000 new wells must be drilled annually to sustain this level of production. Saudi Arabia, in contrast, can produce 12 million barrels per day with 750 wells. The Saudis are producing less than 4 million barrels to assure the price of $29 to $30 per barrel. The difference associated with capital investment needed is conclusive in competitiveness. Alternate energy technologies requiring large capital investment, such as producing synthetic gasoline from coal, have no opportunity for widespread application under these conditions without Government support.

We must not retreat in our national commitment to synthetic fuels. The money spent on these efforts are sound investments in our future. They are, in fact, of equal importance and must interlock with our defense spending for national security purposes. If synfuel development had been permitted to reach its commercial potential in the fifties or renew itself in the eighties much of the international tension being experienced today in Lebanon, the Strait of Hormuz, and other areas in the Mideast would have been negated.

In 1977, 37 percent of our oil imports came from Persian Gulf countries. In 1983, approximately 7 percent came from those areas. Britain, Norway, and Mexico are now providing 32 percent of our requirements. Even though we have reduced our exposure in the Middle East, many of our allies have not. Therefore, under oil-sharing terms contained in international energy agreements we continue energy hostages of the OPEC nations if supplies are cut off.

We cannot expect progress in synfuels with adequate oil supplies, a market-oriented administration, and serious organization and management problems within the Synthetic Fuels Corporation. How can we expect progress if industry has lost its nerve, and the press remains silent except to break the news of one company after another pulling out of planned synthetic fuels projects?

Progress has been made by the passage of the Energy Security Act and the creation of the Synthetic Fuels Corporation. We hear much about dis-

mantling the programs and organization in the press. Unlike the midfifties, there are many strong congressional advocates in the House and Senate. I believe this congressional concern will sustain synfuels development against those who see abolition of the Corporation (SFC) as a method for deficit reduction or acting as a supplemental appropriation for general energy research and development. Continued synfuel development will also create natural and distinct, long-term and profitable markets for all grades, types, and qualities of coal. This, in turn, would blunt concern and division on environmental questions such as acid rain and percent reduction.

We must immediately encourage President Reagan to appoint qualified citizens to the three vacancies which now exist on the Synthetic Fuels Corporation Board of Directors. Then, if industry cannot be convinced to place their capital behind projects, perhaps we should give the Department of Defense access to Corporation funds. We can use the Government-owned, company-operated provisions already contained in the act. A recent report by the National Research Council, done for the Air Force, states without qualification there is a need for a variety of synthetic mobility test fuels and the facilities to produce those products. The study emphasizes the short-term need of synthetic fuels for military requirements and longer term use for bulk synthetic fuels in the commercial aviation industry.

Mr. President, given these facts we should not even consider whether synfuels will be produced and used but when they will begin to come on line. To assure progress continues we must advocate a rapid, action-based program using any one of three arguments.

First, synthetic fuels will be more economic in a long-range sense than are conventional fossil fuels. Because there is an element of risk, Government must provide an incentive to get the industry started.

Second, synthetic fuels are now uneconomic in a market sense, but they offer noneconomic benefits to the Government and general public, such as security of supply, foreign policy leverage, and reduction of the import penalty. Therefore, Government should provide a subsidy for as long as is necessary, not only to create but to sustain an industry.

Third, whether or not synthetic fuels are economic, our future energy demands will not match our conventional primary energy sources. Our Government should explore a number of full-scale synfuels projects to accurately appraise the economic, social, and environmental costs of the synfuels option. Such information will make for better governmental decisions in the future.

We must as a nation eliminate the irony that without oil shortages and soaring prices we systematically abandon synfuels programs designed specifically to protect against such a danger.

FEDERAL AID HIGHWAY ACT OF 1984

Mr. SYMMS. Mr. President, I ask unanimous consent that S. 2527, the Federal Aid Highway Act of 1984, and the section-by-section analysis be printed in the RECORD.

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

S. 2527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal-Aid Highway Act of 1984".

INTERSTATE COST ESTIMATE APPROVAL

SEC. 102. The Secretary of Transportation shall apportion for the fiscal years ending September 30, 1985 and September 30, 1986 the remaining sums to be apportioned for such years under section 104(b)(5)(A) of title 23, United States Code, and shall adjust and reapportion for the fiscal year ending September 30, 1985 the apportionment made on March 9, 1984 under section 104(b)(5)(A) of title 23, United States Code, using the apportionment factors in the committee print numbered 98– of the Committee on Public Works and Transportation of the House of Representatives.

INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

SEC. 103. The Secretary of Transportation shall apportion for the fiscal years ending September 30, 1984 and September 30, 1985, the remaining sums to be apportioned for such years under section 103(e)(4) of title 23, United States Code, and shall adjust and reapportion for the fiscal year ending September 30, 1984 the apportionment made on March 9, 1984 under section 103(e)(4) of title 23, United States Code, using the apportionment factors contained in the committee print numbered 98– of the Committee on Public Works and Transportation of the House of Representatives.

85 PERCENT MINIMUM ALLOCATION

SEC. 104. The Secretary of Transportation shall adjust and reallocate the allocation made on March 9, 1984 under section 157 of title 23, United States Code, to reflect the apportionment of Interstate funds for the fiscal year ending September 30, 1985 and the apportionment of Interstate highway substitute funds for the fiscal year ending September 30, 1984 made as a result of this Act.

RELEASE OF INTERSTATE CONSTRUCTION FUNDS

SEC. 105. Section 104(b)(5)(A) of title 23, United States Code, is amended by striking the five sentences that follow "January 2, 1983." and inserting in lieu thereof:

"Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year ending September 30, 1985. The Secretary shall make revised estimates of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section to the manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985 and January 2, 1987. In September of each year, the Secretary shall adjust the last estimate submitted to reflect (1) all previous apportionments and lapses of previous apportionments, (2) previous withdrawals of Interstate segments under section 103(e)(4) of this title, (3) previous allocations of Interstate discretionary funds under section 118(b)(2) of this title, and (4) Interstate transfers of funds under section 119(d) of this title. The Secretary shall use the Federal share of such adjusted and submitted estimates in making apportionments for the fiscal years ending September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989 and September 30, 1990.".

RELEASE OF INTERSTATE SUBSTITUTE FUNDS

SEC. 106. (a) The eighth sentence of section 103(e)(4) of title 23, United States Code, is amended by striking out the word "approved".

(b) Section 103(e)(4) of title 23, United States Code, is further amended by striking the sixteenth sentence and inserting in lieu thereof the following: "The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984. The Secretary shall adjust such cost estimate in September of 1984 and 1985 to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, (3) approvals of substitute projects, and (4) the allocation and apportionment of substitute highway funds in prior fiscal years and shall use the Federal share of such adjusted and submitted estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985 and September 30, 1986.".

(c) Section 103(e)(4) of title 23, United States Code, is further amended by striking the existing twenty-second sentence and inserting in lieu thereof the following: "The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984. The Secretary shall adjust such cost estimate in September of 1984 and 1986 to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, (3) approvals of substitute projects, and (4) the allocation and apportionment of substitute transit funds in prior fiscal years and shall use the Federal share of such adjusted and submitted estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985 and September 30, 1986.".

EMERGENCY RELIEF STATE MATCH

SEC. 107. (a) Subsection (f) of section 120 of title 23, United States Code, is amended by striking "shall not exceed 100 per centum of the cost thereof:" and inserting in lieu thereof "on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable of a project on a system as provided in subsections (a) and (c) of this section: *Provided,* That the Federal share payable for eligible emergency repairs to minimize damage, protect facilities or re-

store essential traffic accomplished within thirty days after the actual occurrence may amount to 100 per centum of the costs thereof: and further".

(b) Section 120(f) of title 23, United States Code, as amended by this section is effective for all natural disasters or catastrophic failures which occur subsequent to enactment of this Act.

PRIORITY FOR INTERSTATE DISCRETIONARY FUNDS

SEC. 108. Section 118(b)(2) of title 23, United States Code, is amended by inserting after "which is not open to traffic" the following: "and high cost projects which are eligible for Federal assistance with funds apportioned under section 104(b)(5)(A) of this title and are on an Interstate segment which is on a common alignment of more than 7.9 miles with any other Interstate segment and on which actual construction with funds apportioned under such section is underway on the date of enactment of this Act;".

HIGHWAY PLANNING AND RESEARCH

SEC. 109. Section 307(c)(1) of title 23, United States Code, is amended by inserting after "section 104 of this title", the following: "and for highway projects, section 103(e)(4) of this title.".

OFF-SYSTEM BRIDGE PROGRAM

SEC. 110. Section 144, title 23, United States Code, is amended by adding a new subsection as follows:

"(n) Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway system for the replacement of a bridge 51 feet or less in length or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is non-controversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under such section 144, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the effective date of this section, from such State and local sources for such project in excess of 20 per centum of the cost of construction thereof may be credited to the non-Federal share of the cost of other projects in such State which are eligible for Federal funds under section 144, in accordance with procedures established by the Secretary.".

WOMEN BUSINESS ENTERPRISES

SEC. 111. Section 105(f) of the Surface Transportation Assistance Act of 1982 is amended as follows:

(1) after "shall be expended with" insert "(1)", and

(2) strike the period after "thereto" and insert "and with (2) small business concerns owned and controlled by women".

TOLL FACILITY DEREGULATION

SEC. 112. (a) Section 4 of the General Bridge Act of 1906 (34 Stat. 85, 33 U.S.C. 494), as amended, is amended by deleting the last sentence thereof.

(b) Section 17 of the Act of June 10, 1930 (46 Stat. 552, 33 U.S.C. 498a), as amended, is repealed.

(c) Section 1 of the Act of June 27, 1930 (46 Stat. 821, 33 U.S.C. 498b), as amended, is repealed.

(d) Sections 1-5 of the Act of August 21, 1935 (49 Stat. 670, 33 U.S.C. 503-507), as amended, are repealed.

(e) Sections 530 and 506 of the General Bridge Act of 1946 (60 Stat. 847, 848, 33 U.S.C. 52, 529), as amended, are repealed.

(f) Section 133 of Public Law 93-87 (87 Stat. 267, 33 U.S.C. 526a) is repealed.

(g) Section 6 of the International Bridge Act of 1972 (86 Stat. 732, 33 U.S.C. 535(d)) is repealed.

(h) Section 6(g)(4) of the Department of Transportation Act (80 Stat. 937, 49 U.S.C. 1655(g)(4)) is repealed.

RAIL-HIGHWAY CROSSINGS

SEC. 113. Notwithstanding any other provision of law, no report, list, schedule or survey compiled by or for a State for the purposes of complying with any requirement of title 23, United States Code, or the Highway Safety Act of 1973 concerning the evaluation of hazardous roadway conditions or rail-highway crossings in order to plan and prioritize projects to enhance safety, shall be required to be admitted into evidence or used for any other purpose in any suit or action in any Federal or state court.

TOLL REVENUES

SEC. 114. Section 141 of title 23, United States Code, is amended by adding subsection (e) as follows:

"(e) Each State shall certify to the Secretary before January 1 of each year that the State's laws do not permit the use of toll revenues from a publicly owned or operated transportation toll facility located on a Federal-aid system except as otherwise specifically provided by Federal law for any purposes other than a purpose permitted by this title; the repayment of all the cost of construction or acquisition of such toll facility, except that part which was constructed by the United States; the proper maintenance, repair and operation of the toll facility under economical management, or any other highway-related purpose. If a State fails to certify as required by this subsection or if the Secretary determines that the State's laws do permit the use of toll revenues from a publicly owned or operated transportation toll facility for a purpose other than those permitted by this subsection, Federal-aid highway funds apportioned to the State during the next succeeding fiscal year shall be reduced by amounts equal to 5 per centum of the amount which would otherwise be apportioned to the State under section 104 of this title. Amounts withheld from apportionments to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104 of this title and shall be available in the same manner and the same extent as other funds apportioned at the same time to other states.".

RIGHT-OF-WAY DONATION

SEC. 115. Section 120 of title 23, United States Code, is amended by adding a new subsection "(m)" as follows:

"(m) Notwithstanding any other provision of this title the fair market value of donations at the time of donation of right-of-way made for a project under this title shall be credited to the State matching share for such project when the donation is made to the State.".

RIGHT-OF-WAY PAYBACK

SEC. 116. Section 103(e)(4) of title 23, United States Code, is amended by adding at the end thereof the following sentence: "Sums made available to the Secretary under this paragraph for a State shall be reduced by the amount expended in Federal funds to purchase right-of-way for the withdrawn route or segment thereof in every case where the right-of-way has not been disposed of by the State as of the date of enactment of this sentence provided that such sum shall be restored if the State applies such right-of-way to a transportation project permissible under this title, to a public conservation or public recreation purpose, or to such other public purpose as may be determined by the Secretary to be in the public interest within 10 years from the date of the withdrawal of approval.".

BRIDGE STUDY

SEC. 117 (a) The Secretary of Transportation shall conduct a study of the Bridge Replacement and Rehabilitation Program. This study shall include, but is not limited to: (1) an analysis of the progress made towards replacing and rehabilitating inadequate bridges both on the Federal-aid system and off the system; a projection of future needs of the bridge program; and an evaluation of the States' prioritization in addressing bridge repair and replacement.

(2) a review of the bridge inspection program including the adequacy of the AASHTO "Manual for Maintenance Inspection of Bridges 1983"; the adequacy of qualification requirements for bridge inspectors; the status of the bridge inventory; and the adequacy of State bridge inspections.

(3) an analysis of the effectiveness of the bridge discretionary program.

(4) a review of the bridge program's effect on the rehabilitation of historic bridges including the development of specific standards which would apply only to the rehabilitation of historic bridges, and an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

(5) a review of the bridge formula as it affects the configuration and gross vehicle weight of large vehicles; the effect of certain large vehicles on the average life of a bridge; and the current status of and effect of grandfather rights applicable to this formula.

(b) The Secretary shall report to the Congress the results of the study under this section not later than one year after the date of enactment of this Act.

TECHNICAL AMENDMENTS

SEC. 118. (a)(1) Section 103(e)(4) of title 23, United States Code, is further amended by striking out the sixth, seventh, and eighth sentences and inserting in lieu thereof the following: "The sums apportioned and the sums allocated under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year. The sums apportioned and the sums allocated under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned or allocated, as the case may be, and for succeeding fiscal year. Any sums which are apportioned or allocated to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them for such fiscal year. Such reapportionments shall be in accordance with the latest approved estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.".

(2) The last sentence of section 103(e)(4) of title 23, United States Code, is amended

by striking out "designed" and inserting in lieu thereof "designated".

(b)(1) The second section 126 of the Surface Transportation Assistance Act of 1982, relating to bicycle transportation, is amended by striking out "SEC. 126." and inserting in lieu thereof "SEC. 126A.".

(2) Section 133 of such Act is amended by striking out "(a)" the first place it appears.

(3) Section 163 of such Act is amended by striking out "appropriated" and inserting in lieu thereof "apportioned".

(4) Section 415 of such Act is hereby repealed.

(5) The third sentence of section 108(d) of such Act is amended by striking "this title," and inserting in lieu thereof "title 23, United States Code,".

(c)(1) The analysis of chapter 1 of title 23, United States Code, is amended (1) in the item relating to section 127 by striking out "and width", and (2) by striking out the item relating to section 146 and inserting in lieu thereof:

"146. Carpool and vanpool projects.".

(2) Section 120 of such title is amended by redesignating the second subsection "(i)", and subsections "(j)" and "(k)" as subsections "(j)", "(k)", and "(l)", respectively.

(3) The first sentence of section 122 of such title is amended by inserting "or for substitute highway projects approved under section 103(e)(4) of this title" before "and the retirement".

(4)(A) Subsection (b) of section 125 of such title is amended by striking out "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," each place it appears and inserting in lieu thereof "the Federal-aid highway systems, including the Interstate System".

(B) Subsection (c) of such section is amended by striking out "routes functionally classified as arterials or major collectors" and inserting in lieu thereof "on any of the Federal-aid highway systems".

(5) Subsection (e) of section 144 of title 23, United States Code, is amended by adding at the end thereof the following: "Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection.".

(6) The second sentence of section 204(b) of such title is amended by inserting "the Secretary or" before "the Secretary of the Interior".

(7) The last sentence of section 402(j) of such title is amended by striking out "chapter" and inserting in lieu thereof "section".

(d) Section 111 of title 23, United States Code, is amended by inserting "(a)" before "All agreements" and by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State will give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the 'Randolph-Sheppard Act' (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.".

(e)(1) Section 145(c) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

"(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) for each of the fiscal years 1983 and 1984 shall not be greater than the excess of—

"(1) the sum of the amount of obligation authority distributed to such State for such fiscal year under section 104(b) of this Act, plus the amounts, if any available to such State for such fiscal year under section 157 of title 23, United States Code, pertaining to minimum allocation, over

"(2) the amount of obligational authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.".

(2) Section 145(e) of such Act is amended by inserting "section 108 of this Act and" after "such State under", and by striking out "104(b)(1) of title 23, United States Code," and inserting in lieu thereof "108 of this Act".

(f) Section 154(e) of title 23, United States Code, is amended—

(1) by striking out "criteria which takes" and inserting in lieu thereof "criteria which take";

(2) by inserting after "posted" the following: "on January 1, 1983,"; and

(3) by inserting before "in accordance with" the following: ", and on highways built after such date with speed limits posted as 55 miles per hour,".

SECTION-BY-SECTION ANALYSIS

Section 101: This section states the title.

Section 102. Interstate cost estimate approval: This section approves the Interstate Cost Estimate for the remainder of fiscal year 1985 and for fiscal year 1986. The apportionment made on March 9, 1984 would be adjusted to reflect the apportionment factors approved in the 1983 Interstate Cost Estimate.

Section 103. Interstate substitute cost estimate approval: This section approves the Interstate Substitute Cost Estimate for the remainder of fiscal year 1984 and for fiscal year 1985.

Section 104. 85 percent minimum allocation: This section directs that when the remainder of the 85 percent minimum funds are allocated, the entire allocation for fiscal year 1984 will be computed using the apportionment of Interstate construction funds based on the approved 1983 Interstate Cost Estimate.

Section 105. Release of interstate construction funds: This amendment would authorize the Secretary to apportion fiscal year 1986 through 1990 Interstate construction funds after adjusting the apportionment factors to reflect apportionments of Interstate construction funds, lapses of such funds, withdrawals of Interstate segments, allocations of Interstate discretionary funds, and Interstate transfers of funds.

Section 106. Release of interstate substitute funds: This amendment would authorize the Secretary to apportion fiscal years 1985 and 1986 Interstate substitute highway and transit funds after adjusting the Interstate Substitute Highway and Transit Cost Estimates to reflect changes in the amounts available to the Secretary, changes in States' estimates of the division of funds between substitute highway and transit projects, approvals of substitute projects and the allocation and apportionment of substitute highway and transit funds in prior fiscal years.

Section 107. Emergency relief state match: Subsection (a) provides that emergency relief repair work done within 30 days of the occurrence to restore essential services, including such things as road openings, debris removal and erection of temporary facilities, will be funded at 100 percent Federal share. Long-term restoration and replacement work will be funded with the Federal/State match applicable on each system under the regular Federal-aid highway program, e.g. 90-10 percent Federal/State match on the Interstate System, 80-20 on bridge, and 75-25 on primary, secondary and urban.

Subsection (b) provides that the match requirement applies to natural disasters of catastrophic failures which occur after the date of enactment of this Act. Such disasters or failures that occurred prior to the date of enactment would be governed by the old matching share.

Section 108. Priority for interstate discretionary funds: This section permits certain Interstate segments under construction on enactment of the 1982 STAA to receive high priority for Interstate discretionary funds when such segments have two or more Interstate routes on a common alignment in an urban area. This section is intended to apply to a project in Atlanta, Georgia.

Section 109. Highway planning and research: This section permits a State to use one and one-half percent of apportioned Interstate Highway Transfer funds for highway planning and research activities. It would not include the 25 percent of transfer funds that are allocated.

Section 110. Off-system bridge program: This section permits a State to credit State-only financed off-system bridge replacement and rehabilitation towards the State share of the Federal-aid bridge program. Off-system bridges that are non-controversial and less than 51 feet would be eligible for this program. The replacement or rehabilitation must be carried out in accordance with all standards applicable under Section 144 of title 23.

Section 111. Women business enterprises: This secton makes Women Business Enterprises a presumptive Minority Business Enterprise (MBE) for the purpose of section 105(f) of the Surface Transportation Assistance Act of 1982.

Section 112. Toll facility deregulation: This section removes Federal regulation and review of toll increases on certain toll bridges.

Section 113. Rail-highway crossings: This section provides that information identifying and prioritizing hazards at rail-highway crossings, required in order to be eligible for Federal-aid funds, cannot be used as evidence in trials involving grade crossing accidents.

Section 114. Toll revenues: This section requires States to certify that revenues derived from toll facilities are being used only for cost of construction, replacement, maintenance, and operation of the facility or any other highway related purpose. Failure by a State to certify will result in losing 5 percent of its Federal-aid highway funds.

Section 115. Right-of-way donation: This amendment would credit the fair market value of donated right-of-way at the time of donation to the State matching share if the donation was made to the State. A State

would receive no credit for the excess value of a donation which exceeded the State matching share.

Section 116. Right-of-way payback: This section provides for a reduction in a State's account under 23 U.S.C. 103(e)(4) by the amount expended on right-of-way for withdrawn route or segment of the Interstate where the right-of-way has not been disposed of. Such sum shall be restored to a State's account where the State uses the right-of-way for public purpose within 10 years of the date of withdrawal of approval of the Interstate segment.

Section 117. Bridge study: This section directs the Secretary of Transportation to conduct a study of the Highway Bridge Replacement and Rehabilitation Program. The study is to address the areas of (1) progress made to date in repairing and replacing deficient bridges, (2) the adequacy of the bridge inspection program, (3) the effectiveness of the bridge discretionary program, (4) the rehabilitation of historic bridges, and (5) the bridge formula.

The Secretary shall report the findings of this study to the Congress one year after the date of enactment of this legislation.

Section 118. Technical amendments.

UNEQUIVOCAL ADMINISTRATION OPPOSITION TO THE FAIR TRADE IN STEEL ACT

Mr. CHAFEE. Mr. President, I wish to call to the attention of my colleagues an excellent letter from the U.S. Trade Representative, Ambassador Brock, and the Secretary of Commerce, Mr. Baldrige, expressing the administration's opposition to the so-called "Fair Trade in Steel Act."

The "Fair Trade in Steel Act" (S. 3280) was introduced in the Senate on March 1, with 11 Senate sponsors. It has 68 sponsors in the House. The act would authorize a 5-year legislated limit on steel imports, restricting them to no more than 15 percent of apparent domestic supply. The act is presented by its sponsors as necessary to give the steel industry breathing room to modernize and regain its competitive edge. The sponsors ignore that the steel industry has already been the beneficiary of a number of special trade arrangements—including the infamous trigger price mechanism—that have been designed to provide such breathing room.

The letter from Ambassador Brock and Secretary Baldrige expresses the administration's opposition to the fair trade in steel bill in the strongest terms. It makes what I consider to be a crucial argument. That is, that by dramatically curtailing the degree of foreign competition in the U.S. market, the global quotas proposed in this bill would insulate the industry and delay progress toward urgently needed modernization. In short, quotas would provide no breathing room to become competitive, but breathing room to remain uncompetitive.

Mr. President, I believe that steel quotas whether legislated or voluntary are contrary to the national interest and am pleased at the unequivocal opposition of the administration to the bill.

I ask unanimous consent that the letter referred to be included in the RECORD.

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

THE U.S. TRADE REPRESENTATIVE,
Washington, D.C., March 27, 1984.

Hon. JOHN H. CHAFEE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHAFEE: We are writing to express the Administration's vigorous opposition to the "Fair Trade in Steel Act of 1984", S. 2380. We ask that you give careful thought to the damage quota legislation will cause to the American economy.

This bill would impose import quotas of approximately 15 percent on steel products for a five year period. Such a wide range of arbitrarily established quotas provided outside our normal trade statutes would undermine the competitiveness of a great many industries dependent on steel as a raw material and would be highly inflationary.

The dangers posed by this legislation to our greater domestic and international economic interests are clear. While they risk great harm to the remainder of the economy, they also discourage adjustment within the steel industry itself. By dramatically curtailing the degree of foreign competition in the U.S. market, the global quotas proposed in this bill would insulate the industry and delay progress toward urgently needed modernization, cost containment and productivity. Restrictions on imports will lead to a distorted increase in the price of steel, which, in turn, will raise production costs for a wide variety of U.S. industries that make up our industrial base.

Such blatantly protectionist legislation is inconsistent with our international obligations which prohibit import restrictions without a finding of serious injury. Demands for compensation or retaliation by other countries would jeopardize thousands of U.S. jobs in other sectors. Sweeping quotas on all steel products will have an even more devastating effect on the U.S. balance of trade.

By imposing such restrictions, the bill undermines the procedures already legislated by Congress to permit industries and workers to petition for import relief through a fact-finding procedure administered by the independent U.S. International Trade Commission (ITC). Bethlehem Steel and the United Steelworkers have filed such a petition under Section 201 of the Trade Act of 1974. The case is being handled in accordance with established procedures. The ITC is currently investigating whether or not imports have been a substantial cause of serious injury.

This Administration is concerned about the possible effects of dramatic increases in aggressively priced steel imports from certain countries. Yet many of these imports are already under investigation for unfair trade practices. Since 1981, more than 100 cases dealing with steel products have been filed under the antidumping and countervailing duty statutes which offset injurious unfair government subsidies and sales at less than fair value. When such practices are found, immediate action is taken to counter the effect. We are strongly committed to preventing unfairly traded imports from undermining the integrity of our market and injuring U.S. steel producers. The Administration's record on such cases demonstrates this.

This Administration opposes the steel quota bill in the strongest possible terms. Such legislation is inconsistent with our international trade agreements and circumvents trade statutes that have proven effective when utilized correctly in response to unfair practices. Further, it will cause other U.S. industries to pay the price of protectionism through foreign retaliation and artificially increased prices. We urge your full assistance in stopping this measure.

The Office of Management and Budget has advised that there's no objection to the submission of this letter to the Congress and that enactment of S. 2380 would not be in accord with the program of the President.

Very truly yours,

MALCOLM BALDRIGE,
Secretary of Commerce.
WILLIAM E. BROCK,
U.S. Trade Representative.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business has expired.

URGENT SUPPLEMENTAL FOR FISCAL YEAR 1984 PUBLIC LAW 480 PROGRAM

The ACTING PRESIDENT pro tempore. The clerk will report the unfinished business.

The legislative clerk read as follows:

A House joint resolution (H. J. Res. 492) making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, to the Department of Agriculture.

The Senate resumed consideration of the joint resolution.

Mr. STEVENS. Mr. President, I inquire now of the Senator from Michigan if he would be willing to enter into an agreement that was discussed privately last evening?

Mr. LEVIN. A 40-minute time limit?

Mr. STEVENS. A 40-minute time limit.

Mr. LEVIN. Yes.

Mr. STEVENS. Equally divided?

Mr. LEVIN. Yes.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time agreement be amended accordingly.

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

The Senator from Michigan is recognized.

AMENDMENT NO. 2889

(Purpose: To prohibit the use of funds appropriated herein by any individual or group known by the U.S. Government to have as one of its intentions the violent overthrow of any government in Central America with which the U.S. has full diplomatic relations)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an amendment numbered 2889:

At the end of the bill, insert the following: "No funds appropriated herein for covert assistance in Central America can be provided to any individual or group which is not part of a country's armed forces and which is known by the U.S. Government to have as one of its intentions the violent overthrow of any government in Central America with which the U.S. Government has full diplomatic relations."

Mr. LEVIN. Mr. President, this amendment is offered on behalf of Senator INOUYE and myself.

After the debate yesterday on the Senate floor, it is clear that it is a matter of some dispute as to what is the purpose of our covert aid in Central America. But what appears beyond dispute, based on yesterday's debate and earlier statements of the administration, is what is not a purpose of that assistance. The purpose of our assistance is not to overthrow the Government of Nicaragua.

On April 23, 1983, the President stated:

Let us be clear as to the American attitude toward the Government of Nicaragua. We do not seek its overthrow.

Only yesterday, the President wrote the majority leader a letter in which he stated:

The United States does not seek to destabilize or overthrow the Government of Nicaragua.

The amendment which we are offering today merely seeks to codify these representations into law by saying that none of the funds appropriated in this bill for covert assistance in Central America can be provided to any individual or group which is known by the U.S. Government to have as one of its intentions the violent overthrow of any government in Central America with which the U.S. Government has full diplomatic relations. The State Department has informed me that the United States currently has full diplomatic relations with the Government of Nicaragua.

This amendment also seeks to emphasize the sincerity of our stated policy by making it clear it should not be demeaned by a fiction that the intention with which we render covert assistance can be nullified by the known intentions of the person or group which receives the covert assistance. If our policy of not seeking the overthrow of the Nicaraguan Government is a good policy, then it should be a sincere policy, seriously adhered to. And if it is a sincere policy, then the basic principles of agency law should apply—our agents in Central America should be bound by our intentions. Does not our basic self-respect as a nation require that we not be manipulated by the whims of others? Only if we hide behind narrow semantics, could we believe that we would want our assistance to be used for any purpose other than our stated intentions.

If we give a gun to someone and our intention is that it be used for self-protection but find out that it is that person's true purpose to rob a bank, we would quickly want that gun back. Likewise, sincere and credible implementation of our policy not to overthrow the Nicaraguan Government requires that we make sure the recipients of our covert assistance have the same purposes as we do.

And these purposes are not the result of ephemeral policy decisions, incautiously arrived at. No, they are based on our most fundamental ideas as a nation. They are premised on the principles which have made us not only different as a nation but great as a people. It is these principles that led us to sign the Charter of Organization of American States which states:

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State.

It is the obligation of our country not to attempt to overthrow other nations in our hemisphere. It is our purpose, and it should be the purpose of the U.S. Senate, to make clear that we are not supplying funds that are intended to overthrow a government with which we have full diplomatic relations. We may not like the Nicaraguan Government. I certainly do not. The Nicaraguan Government has not restored human rights and political freedoms. But that does not give us the right to covertly or overtly try to overthrow the Nicaraguan Government.

If our intention was to overthrow the Nicaraguan Government through assistance to the Contra forces, then it would be a self-defeating and shortsighted policy. In doing so, we would be confirming the worst fears about U.S. motives throughout the region. As the Los Angeles Times editoralized on April 2, 1984:

If anything, the CIA's not-so-secret war has helped the most ardent revolutionaries strengthen their grip on Nicaragua. It has given the most extreme Sandinistas an excuse to crack down on internal dissent, and has increased their popular support by allowing them to pose as nationalists standing up to Yankee pressure.

In addition, recent reports that the Nicaraguan Government is seeking minesweepers from the Soviet Union and North Korea in response to the mining of Corinto Harbor would seem to be exactly opposite from what should be the desired goal of our policy. Pushing the Nicaraguans further into the arms of the Soviet Union is not the way to diminish Russian influence in Nicaragua or in South America.

If it is true that we do not seek to overthrow the Nicaraguan Government, if it is true that we have treaty obligations not to seek the overthrow of that Government, if it is true that it would be an undignified fiction that our agents can be allowed to use our assistance in a manner contrary to our intentions—if all this is true, and I hope it is, the Senate should have no hesitation in stating that the funds we are voting for here are simply not to be used to overthrow any government in Central America with which we have full diplomatic relations. We should say for the record, now that we are going ahead and voting the $21 million, that we do not want this money to be used for purposes that will violate our stated policies, our treaty obligations, and our moral tradition.

Again, all this amendment does is seek to codify in this appropriation bill the stated intentions of this administration with respect to the overthrow of the Nicaraguan Government, and to seek to convey the seriousness of those intentions by prohibiting the use of covert assistance by any person or group whose intentions are different from our own. It is important to our credibility as a nation that our intentions be clearly understood. But if anybody is going to believe our stated policy, it must be rigorously adhered to by those we put in a position of implementing our policy.

Mr. INOUYE addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. LEVIN. Mr. President, I yield to the Senator from Hawaii as much of the remainder of my time as he may need.

Mr. INOUYE. Mr. President, last evening, the Senate of the United States, by an overwhelming vote, supported the use of funds by the President of the United States to carry on covert activities in Nicaragua. That heavy vote resulted from a letter dated April 4 and addressed to our majority leader. It was a letter of assurances, and I think it is worthy of repetition. This historic letter said:

The United States does not seek to destabilize or overthrow the Government of Nicaragua; nor to impose or compel any particular form of government there.

This amendment is very simple. All it does, as the author has indicated, is to attempt to codify that assurance. It further reaffirms this country's support for article 18 of the OAS Charter.

So, Mr. President, I hope the Senate will go on record, first, to support the President of the United States in his assurance that it is not the intention of this country to overthrow the Government of Nicaragua and, second, to reaffirm as we have done many, many times—article 18 of the OAS Charter.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, I yield myself such time as I may use.

I ask Senator LEVIN and Senator INOUYE, or either one, a question.

We have voted now that the program underway will continue. The funding, as I understand it, is as approved by the Intelligence Committee. It is known that that funding is currently being used for support of a group known as the Contras, which is not part of the armed forces of any country.

Is this not another amendment to cut off all aid to the Nicaragua Contras?

Mr. INOUYE. Mr. President, if the Senator will yield, that is not the intention of this amendment.

If my good friend from Alaska will read further, it says if this organization has "as one of its intentions the violent overthrow of any government."

If we are assured and if we believe that the Contras are not in the business of overthrowing the Government of Nicaragua, this amendment says we may provide them with all the funds we wish to, as long as the intention of the President of the United States, as set forth in his letter of April 4, is carried out.

Mr. STEVENS. Mr. President, that is just the issue. That is our intention, the intention of the United States.

I remember well, during the war in China, that my squadron supported the Communist Chinese. We were directly in support of the Chinese Nationalist Government, but we also provided aid and assistance to Communist Chinese to fight the Japanese.

The world knows of the differences between the partisans in Yugoslavia. We supported both sides in order to achieve our objective, which was to defeat the Nazis.

What this amendment says is that we have to provide money under this program only to those who take a loyalty oath to the President of the United States and who say, "We are going to go out there in the field and do exactly what the President of the United States says this money is for." Or, you could give the money to the Sandinistas. Under this amendment, we could turn the money over to the Sandinistas. I am sure the Senator would agree with that. That is not what this is all about.

With respect to the hypothetical situation I used last night, I was reading the RECORD this morning to see if it came through as I stated it, and I thank God that it did. I congratulate the official reporters again for being able to make sense out of some of our hastily put-together examples.

These forces in Nicaragua—again I challenge anyone to prove I am wrong—in my opinion, are the most heavily armed people on the face of the Earth today. They have forces and tanks on the border of Costa Rica, which has no military at all. They have forces on the border of El Salvador, and they are providing El Salvador rebels with guns. They have forces on the border of Honduras, and they have attacked Honduras.

There is a group of their partisans who do not like their government, who would like to overthrow their government. They have said so. Our President has said, "We will provide you enough assistance so that you could put pressure on this government."

The U.S. Government does not have any intention to try to overthrow that Government. That is not our objective. Our objective is to force them into the bargaining rooms, where we can deal with the Contadora process, so that they will do what they said last July: go ahead with the 21 points, offer amnesty to the insurgents and discuss their military budget, and turn again to the concept of civil rights of their people and democracy within their borders, if that is their desire, but at least a government that meets the needs of the people.

I view this the same as the situation when I was part of the group supplying the Chinese Communists. Our objective was to defeat the Japanese. Our objective here is to get these people back to the table.

Incidentally, I urge Members to go down and talk to them. I think the Senator from Hawaii has talked to the Contras. They live on the run. They have no mobility except their feet. They are living in their own country; and if they did not have some support, they would have been annihilated long ago. They are a force that is less than 8 percent of the force they face. They are operating with 10 percent of the money, for their total budget, that the other force is putting into military construction—into one airfield.

We are not supporting any effort to overthrow the Government, but this amendment, in my opinion, would accomplish every objective that the other amendments we voted down would accomplish. It would say we can no longer support the Contra group because that Contra group longs for the day when it had democracy. They long for the day that they would be able to participate in their Government.

They have been ostracized by their Government because they do not support the Sandinistas.

To say that we cannot assist them is to say there is no way to keep pressure on them. And what would happen? Again we would have intrusions coming into Honduras. The flow of arms into El Salvador would again go up to the level it was before this process started.

And no one has denied that one of the results of the Contra process has, in fact, been the reduction of the flow of arms into El Salvador. No one can deny that it has, in fact, taken the troops from the border of Honduras and put them around where they are guarding their airfields, they are guarding their POL facilities, they are guarding the places that have been subject to the Contra attacks, and that is exactly what the process is for.

The program has been successful. We have had significant progress and we are not talking about all the specifics here—those are again classified—but we are authorized to say that there have been conciliatory gestures delivered to our Government and the Intelligence Committee and our committee knows about it.

They are more willing now to look to some way to curb this fantastic military growth, and it is absolutely in the best interest of this country to see to it that that growth stops.

As I mentioned last night, since the time we debated this last year, they have gone up more than a third in terms of just the number of Soviet tanks that are on the line in Nicaragua. They have gone up now to three battalions of Soviet tanks—three battalions.

That whole country would fit in an area that is known as the Kenai Peninsula in my State. It is about one-ninth, or one-tenth of the size of the State of Alaska. It is roughly the size of Tennessee.

Can you imagine having three battalions of tanks on the borders of every State around Tennessee? Can you imagine having 60 armored personnel carriers, when they have very few roads in their own country? The only roads that go out of that country that make any sense are the inter-American highway connections.

They have Soviet and Korean patrol boats. They have military transport planes, troop carrying transport planes now, in an area where their neighbor Costa Rica has no military at all, and a dictator the Sandinistas deposed, that terrible Somosa, had 9,000 national guardsmen—9,000. And this regime has over 100,000 available like that, just at the snap of his fingers.

This Contra activity is the only thing that is keeping those people

busy. It is the only thing making them think about what might happen to them should they become the pawn of the Soviet-Cuban foreign policy and decide to take that Soviet-Cuban force also bolstered by the East Germans outside of the borders of Nicaragua.

Mr. President, I know of nothing that would justify the military buildup that has taken place in Nicaragua just since last December; 14 to 18 attack helicopters, the new Soviet attack helicopters, are there. There are 14 to 18 of them down there in Nicaragua, and the clock is ticking on Nicaragua, and this loyalty oath amendment will say the Contras get no more money after the date it passes, and I frankly tell my friend from Hawaii I just do not believe that it is possible to live with that amendment and to do what the Intelligence Committee has already told our committee should be done, and that is make available $7 million now and $14 million in the future at the request of the President of the United States if the existing law is complied with, and that is the Intelligence Committee procedures, not the Appropriations Committee procedures.

So we have relied on the Intelligence Committee. They told us this money should be authorized. They were fully briefed as to whom was getting it right now, what it is being used for; and the bulk of it is being used for small arms, for medical supplies, for ammunition. They told us there is only one person in the Contra outfit who is getting paid, and that is a radio operator. They did not have a radio operator so they had to hire a person. Every other person in that Contra group is a volunteer. There is no money being paid for salaries. This is strictly support of their partisan group, and it is as partisan as Tito's group was in World War II, and they are after the same objective we are, and that is to bring that government to the bargaining table. Sure, they are saying that they are seeking to overthrow him. What would you tell your people if you are out there in the field and being shot at? "Go ahead, boys, stand up and fight because we might get these guys to the bargaining table?"

The question of the bargaining table for them is ultimately amnesty, and they know that. If this stops, there will be no amnesty for those people and the people we have supported, 8,000 strong, will be murdered. They will be executed. They will no longer be able to defend themselves, and whoever votes for this amendment is voting not for the concept of terrorism, as the Senator from Connecticut said last night, but strictly for execution.

This is an amendment that will bring about the execution of 8,000 people who have sought to put pressure on that fantastic source of military power in Central America.

I just cannot support it and I cannot understand supporting it in view of the Intelligence Committee record which says that the existing program should go on, and again I ask the sponsor of the amendment how could this permit the people who are in the field now, whose ammunition we know runs out about the 1st of May from not being overrun? Unless we get not just dollars to them but ammunition to them by the 1st of May they will be overrun. How does this help them?

Mr. INOUYE. Mr. President, may I have some time to respond?

Mr. LEVIN. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Ten minutes and ten seconds.

Mr. LEVIN. Mr. President, I am happy to yield 5 additional minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I have had the privilege of serving on the Intelligence Committee from its birth 8 years ago. I have had the privilege and honor of serving as its first chairman.

When the Intelligence Committee, by an almost unanimous vote, approved the appropriation of $21 million to be used in that part of the world for covert activities, it was done with the understanding that none of these funds would be expended for the overthrow of Nicaragua.

Mr. President, this amendment has nothing to do with the loyalty oath. There is a basic principle involved, one that all attorneys in the United States are fully aware of and one of the first things one learns in law school in American jurisprudence—the law of agency, the principle and agent. The principle shall be responsible for the acts of the agent if he is aware of those acts or if he should have been aware of these acts or if he authorized the agent to act.

We cannot very innocently provide money knowing that that money will be illegally spent. We cannot provide money knowing that that person will violate article 18 of the OAS Charter and then say we had nothing to do with it.

If any more ships sink in the Nicaraguan harbor, we cannot say we have nothing to do with this, that all we did was provide the money, and we cannot tell the world we had no idea that the Contras had this in mind.

Some day, if we do not adopt this type of amendment, we may find ourselves being responsible for a horrendous act that will lead us to overt war.

So, Mr. President, this is a very basic amendment, I think one of the most important amendments that we have had before us in this debate.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. INOUYE. I am happy to yield.

Mr. STEVENS. Mr. President, would the Senator agree to amend this to say that the money would not be used to support a policy by the U.S. Government which would in any way seek to overthrow the Government of Nicaragua or any other government in Central America rather than say we have to go to the feelings expressed by these people who are partisans?

I talked to those partisans. There is no question they would like to overthrow their government. No question about it. You talked to them. They would not get any money under this amendment.

Now that certainly is not my intention. I have the letter here from the President of the United States. And there is no question that he says:

> The United States does not seek to destabilize or overthrow the Government of Nicaragua; nor to impose or compel any particular form of government there.

Now I support that and the Senator supports that. The Senator is interpreting this amendment to mean what the President said apparently. Is that his intent?

Mr. INOUYE. If I may respond, Mr. President, what I am trying to say, very simply, is that we cannot have a document saying we are against murder and provide money to someone else to commit murder. We would be responsible for that act. And, likewise, if we know that the Contras are out to overthrow the Government of Nicaragua, we have no business providing funds to that group. That is the issue before us. If the Contras have, as the purpose and intention of their mission, what we have as our purpose and intent, fine. But if it is to destabilize that government and to overthrow that government, then, Mr. President, this amendment should be in effect. Because, otherwise, we would be violating article 18 of the OAS Charter, and we are a signatory. We would be violating the conditions set forth by the Senate Intelligence Committee. We would be violating the conditions set forth by the House Intelligence Committee. So, Mr. President, I hope that the Senate in overwhelming numbers supports this matter.

The ACTING PRESIDENT pro tempore. The time yielded to the Senator has expired.

Mr. LEVIN. Mr. President, I yield myself 3 minutes.

Mr. President, the issue here is whether or not we are serious and whether or not we want to be taken seriously when we say that we do not seek to overthrow the Government of Nicaragua. That is the only issue. The President said it again yesterday. The President has said it on a number of occasions. Indeed, the floor manager, I believe, said it yesterday, that it is not our intention to overthrow the Government of Nicaragua. Nobody is going to believe us. We will have no credibility. Nobody is going to rely on our word if we provide money to indi-

viduals or groups who do intend to overthrow the Government of Nicaragua.

The only question is, Do we want to be believed and is anyone going to believe us?

Now, I think it would be shameful for the Senate, on an appropriation bill, not to state clearly the policy of this country. It is not the policy to overthrow the Government in Nicaragua. We want to believe our President. He told it to us yesterday. Everybody wants to believe our President, whether we happen to be in the same party or not. He is our President. He is the only President we have. He has assured the world it is not our policy to overthrow the Government of Nicaragua. All this amendment says is, then do not use these appropriated funds to violate our stated policy.

We cannot hide behind a fiction and say, "Oh, we are serious" and still give funds to a group or to individuals who violate our own intentions. That is what appropriations bills are for, to appropriate money for a purpose. And if our purpose is not to overthrow a government with whom we have full diplomatic relations, then we should say so. "It is not our purpose and we are not going to let this money be spent in that way."

It would discredit the Senate, in my opinion, to reject an amendment which does nothing more than state clearly what this country's purpose is. And it would be shameful for us to send a message out that yesterday we said it is not our intention to overthrow the Government of Nicaragua but today the U.S. Senate says we are going to give money to groups who want to do just that.

Nobody is going to believe us, folks. If you were in Central America or if you lived outside of this country, indeed, if you lived in this country, who is going to believe us if this amendment is rejected, which puts in legislative language nothing more than what the President of the United States has said, what has been said over and over again by the Intelligence Committee, by the floor manager and others? "It is not our intention to overthrow the Government of Nicaragua."

The ACTING PRESIDENT pro tempore. The Senator has used 3 minutes.

Mr. STEVENS. How much time remains, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 7 minutes and 8 seconds and the Senator from Michigan has 2 minutes and 13 seconds.

(Mr. SYMMS assumed the chair.)

Mr. STEVENS. Mr. President, plainly and simply, when we voted the money last year, $24 million that has been used and will be used through May, we made a covert program a matter of public knowledge. Many of us thought that it ought to be overt at the time and I have no problem about it being overt except for the problem of the lives of the people involved. That is a difficult thing, to hold hearings and ask of the Contras to come up here and testify and say, "Now, where are you going to go in February and where are you going to go in March and where are you going to go in April and where are you going to shoot your last ammunition just before the 1st of May?"

I think that when we really looked at it, calmer heads prevailed and said it is a covert operation because the lives of people involved are at stake. We did it primarily because we had knowledge of what went on.

We should be aware of what the Sandinistas are supporting.

I am trying to find that Wall Street Journal editorial on what happened in just 1 day as a result of Communist supported guerrilla activity. I remember in 1 day bullets were sprayed on a schoolbus; a grenade was put in the hand of a person who was standing in a mass of children.

In terms of the Honduras intrusion, we flew down into the area where that intrusion took place. It is a quiet delta country that until the last few years has not even had a road. People live in abject poverty. Most people that are in their sixties had never seen a doctor in their lives. They were subject to an attack all of a sudden, out of the night, by this armed might that I have been talking about from Nicaragua, not once but on many occasions. They suddenly found themselves overwhelmed without any defense at all. They had not even known military power in the past.

Now that has ceased. Those women and children in Honduras are no longer being killed. Their farms are no longer being burned. The amount of arms going into El Salvador has been reduced and that country now has held not one but two elections and will soon hold a third one in which I do not know of anyone who was reported being killed standing in line for up to 6 and 7 hours waiting to vote, notwithstanding the commitment that was made by guerrillas to destroy the vote.

You ask what the Contra process has brought about. They have, in fact, brought about the diversion that we described last night, that military force is backing away from the borders and it is now guarding in a defensive way those installations that have importance to the country of Nicaragua from a military point of view.

And as I said, there are gestures of a conciliatory nature saying we would like to be back in the Contadora process.

Again, those people that are in the field are fighting for something that they believe in—a different kind of government for Nicaragua. I do not endorse that. I have never said we are going to provide them funds in order to bring about and achieve an overthrow of the Government of Nicaragua. We have said that we believe that what they are doing is consistent with our goals to bring about a realization in Nicaragua that the military aggressiveness that they practiced in the past will not be successful.

Mr. President, the main thing about this amendment is that this amendment would in fact accomplish what all of the amendments we have defeated so far would accomplish. Without question, it would mean that the people that are in the field now who have stated to interviewers that that was their goal, to overthrow that government that is there in their country now, but, yes, they are doing what they are doing and they know what they are doing is bringing pressure on their government, so they are achieving our objective and dreaming that they might achieve theirs. That would be a force that would no longer be able to receive any ammunition. Again, Mr. President, I tell you we would read in the paper that 6,000 to 8,000 people were murdered right after the first of May. They would be executed without any question. I talked to their leaders. I saw pictures of their little tents that they fold up and the boards they put down to have a floor in that country where it rains so hard. They carry them on their backs. They cannot move very far in Nicaragua when they are being pursued with over 100,000 people with attack helicopters, flamethrowers, and every modern piece of weaponry that the Soviets and the Cubans can pour into Nicaragua.

We are talking about $7 million in the first installment, which would be enough to keep that group going for maybe 40 days. And then another $14 million which would keep them going probably until the end of September. Hopefully, by that time Nicaragua will do what it says it will do. It will be back at the OAS table. It will go back to the Contadora process, and then we might have some hope for restoring peace down there. But should this amendment pass, I can assure you of one thing. There are 100,000 people from Nicaragua and Costa Rica—I have not even mentioned that. That was a figure I got yesterday—refugees who arrived there within the last 6 months. Costa Rica does not know what to do with them. We can expect, Mr. President, half a million refugees from Nicaragua to come into the United States, if the Contadora process stops. There is no way to stop that flood of refugees once the executions of the Contras take place.

I am prepared to vote, if the Senator is prepared to vote.

● Mr. EAST. Mr. President, the measure we are considering today, House

Joint Resolution 492, contains a provision appropriating $21,000,000 to be used to aid the so-called Contras, the freedom fighters now engaged in armed resistance against the Marxist Sandinista regime in Nicaragua. I support this measure, and I oppose amendments to the resolution that would delete or resist these funds.

There is no greater testimonial of the commitment of the people of Nicaragua to freedom and their hatred of communism than the growth of partisan resistance to the Nicaraguan regime. These freedom fighters have been called, by some in this Chamber, "thugs" and "terrorists," but nothing could be further from the truth. The Contras consist for the most part of Indians, peasants, small landowners, and others who have been persecuted by the Sandinista regime. Only some 2 percent of one of the main Contra organizations consists of former members of the national guard of President Somoza. The Contras consist principally of two organizations, the Nicaraguan Democratic Front (FDN), and the Democratic Revolutionary Alliance (ARDE). The FDN, operating in northern Nicaragua near the Honduran border, has a force of some 10,000 combatants, while the ARDE, operating in southern Nicaragua near the border of Costa Rica, has about 4,000 combatants. A total of 14,000 combatants, therefore, are involved in a guerrilla war against the Marxist Nicaraguan regime, a regime that is the most powerful military force in Central America, which since its inception in 1979 has received some $265 million in military assistance from the Soviet Union and Cuba, which has at least 2,000 military advisers from Cuba and about 85 from the Soviet Union and Eastern Europe, and which has an army of some 138,000 troops.

Mr. President, it is absurd to argue, as some opponents of this appropriation have, that the purpose of American support for the Contras is to overthrow the Sandinista regime. It is virtually inconceivable that the Contras at their present level of force, can accomplish this, nor could they with the proposed $21,000,000. If the United States wished to overthrow the Sandinista junta, surely we could find more effective means to do so than by supporting the Contras. This fact alone should allay the expressed suspicions of the opponents of this appropriation that the overthrow of the Sandinistas is our real purpose.

Furthermore, Mr. President, both President Reagan and leading spokesmen for the administration have already and repeatedly stated, and the legislative history of this resolution will show, that our purpose in providing covert aid to the Contras is not to overthrow the Sandinistas but to assist in the interdiction of arms secretly provided to the terrorist allies of the Sandinistas in El Salvador.

This purpose is an entirely legal and legitimate one. It is part of the President's authority to conduct, through the Central Intelligence Agency, covert action. The appropriation has been considered and approved by the Senate Select Committee on Intelligence, and the chairman of that committee, my distinguished colleague from Arizona, spoke very ably to that point yesterday. As the Senator from Arizona pointed out, the Treaty of the Organization of America States as well as the Treaty of Rio de Janeiro impose an obligation on their signatories to come to the aid of other signatories who are defending themselves against armed aggression. The Sandinista regime, with the active help of Cuba, the Soviet Union, and the PLO, is actively engaged in arming and assisting terrorist subversion against El Salvador, Guatemala, and Honduras. Our aid to El Salvador, as well as our covert assistance to the Contras, is our part in defending these allied governments aginst Communist aggression. American support of the Contras is therefore proper and legal in every respect.

Some opponents of this appropriation, Mr. President, have argued that our aid to the Contras has a destabilizing effect in Central America. The plain truth is, however, that it is not the United States or the Contras who are destabilizing that region, and the United States is not the only country providing aid to the Contras, who operate against the real aggressors and destabilizers from Nicaragua and Cuba.

To eliminate or restrict the funds proposed for the Contras would in fact be perceived in Latin America as a weakening of our will and of our commitments to resist Cuban and Nicarguan aggression there. It would be so perceived by the leaders and people of El Salvador, by the people of Nicaragua, by the Contras and their supporters within Nicaragua, and by the leaders and peoples of all Latin American countries that have reason to fear Communist aggression and subversion. It would be one more signal of isolationism, lack of a policy for Central America, and an abandonment of our traditional role and responsibilities toward this region. The elimination or restriction of these funds would be so perceived, not because the peoples of Latin America believe we are trying to overthrow the Sandinistas, but because they would see that the Senate of the United States is not making use of what is legally permitted our Government to oppose aggression and to support our allies, and they would come to believe that America is not serious about aiding those who oppose the subversion of the Central American subcontinent by the forces of international communism.●

Mr. SPECTER. Mr. President, I am voting to table this amendment, just as I voted to table Amendment No. 2888 last night, because I do not believe that it is realistic to define limitations on funding as proposed by Senator DODD in Amendment No. 2888 or by Senator LEVIN in this amendment.

I voted against the funding of $21 million for covert aid to Nicaragua because I believe that such covert aid, which is essentially directed to harass or to overthrow the Nicaraguan Government, is counterproductive to a long-range solution in the region. As previously noted, it is my view that negotiations should be undertaken through the Contradora process with participation by the United States.

Once the appropriation of $21 million was passed, it is my judgment that the limitations attempted by these amendments are meaningless and dilatory.

I believe we should now move ahead with the balance of this bill and the budget measures which are scheduled for consideration after final action on this appropriation bill.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield myself 1 minute.

The issue here is whether or not we mean what we say. Everybody is for democracy in Nicaragua. We hope someday we can restore it. Everyone shares in the mistakes of the Nicaraguan Government in some of their activities, including the export of revolution. We have decided as a country, as an administration and as a Senate that it is not our intent to violently overthrow any government with which we have diplomatic relations. That is all. We cannot hide behind any fiction and say, well, that is not our intention and then supply arms to people who violate our own intention.

My friend from Alaska said during the debate that they are after the same objectives that we are. If that is true, this amendment would not indeed stop $1 of aid to the Contras. It is only if their intention is different and inconsistent with our intention. It is only if they want to do something which we vow we do not want to do.

The PRESIDING OFFICER. Will the Senator yield 1 minute?

Mr. LEVIN. I thank the Chair.

I yield myself 1 additional minute.

It is only if they want to do something that we vow is not our intent that we would not be able to supply them with funds. So it comes down to our own credibility, our own sense of whether or not we want to be taken seriously with our words and whether or not we think anybody is going to believe a fiction that, oh, no, we do not want to overthrow a government with

whom we have diplomatic relations while at the same time we supply individuals or groups that have exactly that intention. This does not stop aid to anybody. It requires that anyone who receives our aid be carrying out our intention and not violate our word. That is all it does.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Is the Senator prepared to yield back time?

The PRESIDING OFFICER. Twenty-two seconds are left to the Senator from Michigan, and 10 seconds are left to the Senator from Alaska.

Mr. LEVIN. I am happy to yield back.

Mr. STEVENS. We graciously yield back that time.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that the Senator from North Dakota (Mr. BURDICK) and the Senator from Arizona (Mr. DECONCINI) are absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 44, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—51

Abdnor	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Baker	Hatch	Packwood
Boren	Hawkins	Percy
Boschwitz	Hecht	Quayle
Chafee	Heflin	Roth
Chiles	Helms	Rudman
Cochran	Humphrey	Simpson
D'Amato	Jepsen	Specter
Danforth	Johnston	Stevens
Denton	Kassebaum	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Tower
Durenberger	Long	Trible
East	Lugar	Wallop
Evans	Mattingly	Warner
Garn	McClure	Wilson

NAYS—44

Andrews	Cohen	Grassley
Baucus	Cranston	Hatfield
Bentsen	Dixon	Heinz
Biden	Dodd	Hollings
Bingaman	Eagleton	Huddleston
Bradley	Exon	Inouye
Bumpers	Ford	Kennedy
Byrd	Glenn	Lautenberg
Leahy	Moynihan	Sarbanes
Levin	Pell	Sasser
Mathias	Pressler	Stennis
Matsunaga	Proxmire	Tsongas
Melcher	Pryor	Weicker
Metzenbaum	Randolph	Zorinsky
Mitchell	Riegle	

NOT VOTING—5

Burdick	Hart	Stafford
DeConcini	Nunn	

So the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2890

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Tennessee (Mr. SASSER) proposes an amendment numbered 2890.

Mr. SASSER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 6, line 12 after the word "Congress" strike all through line 16 and add the following: "; *Provided*, That temporary facilities previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense, shall be available solely for the conduct of military training exercises unless such facilities are deemed necessary for the evacuation or self-defense of U.S. personnel: *Provided further*, except as specifically authorized and appropriated by Congress no funds appropriated to the Department of Defense may be obligated or expended to upgrade or convert to permanent use for any military or paramilitary organization any temporary facility previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense.".

Mr. STEVENS. Mr. President, will the Senator yield for a moment?

Mr. SASSER. I yield.

Mr. STEVENS. Mr. President, this is the amendment, I believe, that I have discussed with the distinguished Senator from Tennessee, and we have agreed that the time limit would be 2 hours, 1 hour on each side.

Mr. SASSER. I say to my friend from Alaska that that is agreeable with the Senator from Tennessee, with the stipulation, which I think is agreeable to the Senator from Alaska, that we have an up-and-down vote on this matter.

Mr. STEVENS. Mr. President, on this vote, we have no problem with an up-and-down vote. I will state that I may have an amendment to the amendment. That will come out in the debate. It may be possible to avoid that.

There is time under the existing agreement for amendments in the second degree, is there not?

The PRESIDING OFFICER. Yes.

Mr. STEVENS. Mr. President, I ask unanimous consent that the time on the Senator's amendment be limited to an hour on each side, and I state to the Senator that we will not make a motion to table this amendment.

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

Mr. SASSER. I thank the Senator from Alaska.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. MATTINGLY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I yield myself such time as I may consume.

I offer this amendment on behalf of myself and Mr. INOUYE, Mr. BINGAMAN, Mr. PELL, Mr. WEICKER, Mr. EAGLETON, Mr. LEAHY, Mr. GLENN, Mr. ZORINSKY, Mr. BUMPERS, Mr. EXON, Mr. RIEGLE, Mr. CRANSTON, Mr. FORD, Mr. PROXMIRE, Mr. TSONGAS, Mr. BAUCUS, Mr. RANDOLPH, Mr. BIDEN, Mr. MELCHER, Mr. PRYOR, Mr. METZENBAUM, Mr. KENNEDY, Mr. BOREN, and Mr. LEVIN.

Mr. President, as this debate proceeds today here in the Senate, U.S. combat engineers are in the process of building yet two more airfields in Honduras.

One is being built near the Nicaraguan border, and the other only a few miles from El Salvador. These two construction sites are near the scenes of recent armed conflict. The Contras and the Nicaraguan armed forces are presently engaged in fighting less than 20 miles from Jamastran, the site of the airfield near the Nicaraguan border. There is a danger that U.S. troops could be drawn into this fighting if it spreads.

However, despite the risk involved—the risk of troops getting caught in crossfire—these construction projects are being undertaken without specific approval of Congress. In fact, the appropriate congressional committees were not even consulted before ordering these airfields built.

The two airfields presently under construction will bring to eight the number of airfields the administration has ordered constructed in Honduras since the Big Pine I exercises began a little more than a year ago.

In addition, the Big Pine I exercises and the subsequent exercises have been used as a pretense to construct radar installations, base camps, and training facilities throughout this small nation, roughly the size of my native State of Tennessee.

In all, the United States will have built or have access to 14 separate military installations in Honduras by the end of the Grenadero I exercises currently underway.

What is most disturbing about this substantial military buildup in Honduras is that most of the construction has taken place with virtually no public notice and with no specific approval from Congress.

The administration has built an extensive network of military facilities in Honduras—a military infrastructure capable of supporting a major armed intervention by U.S. military forces.

Indeed, it has been reported by one publication of some renown in this country that the 82d Airborne Division could be put into the country of Honduras in only one afternoon, utilizing the airfields and airstrips that have been built.

We have had no report as to exactly why we are building these facilities in Honduras or precisely what the objectives of the U.S. policy are in that small country.

Mr. President, I submit that we, as Members of the Congress, would be neglecting our responsibilities if we allow this situation to continue—military facilities to be constructed willy-nilly, on and on into the future.

The amendment I bring before the Senate today seeks to restore integrity to the congressional process with regard to U.S. military construction activities in Honduras. My amendment has two very simple, moderate, and eminently reasonable provisions:

First, it would prohibit the use of facilities constructed from operation and maintenance funds of the Department of Defense in Honduras for any purpose other than the conduct of military training exercises.

The ostensible reason given for constructing these facilities and these bases and these airfields is that they are needed for training. We are told that they are simply incidental to the exercises or maneuvers that are taking place in Honduras. So who could object, then, to the first provision of my amendment requiring that they be used only for military training?

Second, it would prohibit the Department of Defense from using operation and maintenance funds to convert any of these facilities to permanent use for any military or paramilitary organization.

The opponents of this legislation claim that other than two military construction projects approved by Congress the United States is building only temporary facilities that are needed solely for the military maneuvers. If that is the case, then I expect they will support this amendment because it does not prohibit the construction of purely temporary facilities that are to be used simply for exercises or training maneuvers in Honduras.

But I would be derelict, Mr. President, if I did not state to my colleagues here today that my trip to Honduras 7 weeks ago and a careful review of the facts available about U.S. activities in that country make it, I think, clear that many of these facilities are permanent and semipermanent and they go far beyond what is needed to conduct military exercises.

Let me cite some evidence as to the permanent nature of these facilities:

The General Accounting Office conducted an extensive investigation of this matter and determined that the United States was, and I quote from that report, "engaged in a continuing, if not permanent, military presence in Honduras."

That report was classified, and I am not at liberty to divulge all of the contents here today in an open session, but a number of my colleagues have received a classified briefing from the General Accounting Office auditors, and I am confident that they will confirm that the GAO has essentially confirmed my findings in this matter as to the permanence of the facility.

When I visited Honduras, I was told that exercises are planned there for at least 5 more years.

Prior to going to Honduras, I was told by officers from the Pentagon that we had no plans for exercises beyond the fall of this year.

Upon my return from that country, I read a New York Times dispatch which indicated that the exercises would be conducted in the country of Honduras for up to 20 years.

Now, I submit that hardly supports the contention that these facilities are only "temporary" in nature.

Let me give you another example:

Over a year ago the Seabees of the U.S. Navy improved an airfield at a location called Puerto Lempira on the east coast of Honduras. This is one of the so-called temporary airfields. But Puerto Lempira is still being used today. It was used during Big Pine II and southern command officials have told me that it will be used during Big Pine III, another exercise next year. So this is typical of the so-called temporary dirt airstrip still in use after 2 years, still able to handle traffic and accommodate 155,000-pound C-130's that will be landing there.

Then at Aguacate, another base close to the Nicaraguan border, the Engineers of the U.S. Army have lengthened an existing 4,300 foot runway, which is capable of handling C-130 traffic to 8,000 feet.

Mr. President, I walked that runway with a young captain who was in charge of the Army Engineers company which constructed it, a brilliant young officer, a graduate of the engineering school at Georgia Tech, holder of a master's degree in civil engineering from the Massachusetts Institute of Technology. That young officer was very proud of this 8,000-foot airfield that he constructed there and he pointed out how he moved a large hill, how he had diverted a stream, and how he had constructed, along with his colleagues, a very elaborate concrete culvert system under the runway to handle the drainage. That is hardly what I would call a temporary facility. Those officers present the day I visited took great pride in indicating that this facility would stand the strain of the weather for years to come.

Now, we learn that the commander of the Southern Command, General Gorman, acting as his own authorizing and appropriating committee, has approved the construction of a parking apron and an aircraft turnaround to go with the 8,000-foot runway at Aguacate.

A C-130, which we use to supply our exercises and maneuvers, can land on a 3,000-foot runway so the only possible explanation for an 8,000-foot runway is that it is intended to be utilized at some juncture by jet attack aircraft or jet fighter bombers.

Mr. President, last year Congress passed, and the President signed into law, a requirement that the Committees on Appropriations be provided with a detailed construction plan for the country of Honduras regarding further U.S. military construction in that country.

The bill was signed into law by the President on October 11. To date, Congress has not received that report from the Pentagon, and Pentagon officials have told me that we will not receive this detailed construction report until May or June of this year, some 8 or 9 months after it became necessary by law that they advise this Congress of their plans for military construction in Honduras.

Since that bill was signed into law last October, the Pentagon has built or improved three new airfields at San Lorenzo, Trujillo, and Aguacate.

In addition, a sophisticated radar site has been established at Tiger Island and is being manned by elements of the U.S. Marine Corps. And two additional airfields will be built this month, as I indicated earlier.

So, no wonder the construction report has been withheld. No wonder the law has not been complied with.

Before Congress receives the report that was mandated on October 11, 1983, the Pentagon will more than have doubled the size of the military infrastructure in Honduras.

The question we must ask is for what purpose? Why has the administration embarked on this military buildup?

That question has not been answered.

What we are seeing in the country of Honduras is an attempt by the administration to stretch the definition of "temporary" to include whatever they want to build. But, this debate should not degenerate into a question of semantics.

That is not necessary. My amendment would allow the administration to go ahead and build their temporary facilities and to conduct their military exercises. It would only require the administration to come back to Congress if it plans to make these facilities permanent.

It would also prohibit the use of these facilities for any purpose other than the exercises or for the evacuation or self-defense of U.S. military personnel.

Mr. President, if I understand my colleagues correctly who support the administration in these activities, their defense is that the facilities in Honduras are only temporary and are just for the purpose of these military exercises. They are said to be incidental to the exercises. And the engineering battalions who construct them are gaining valuable experience. That is what it is all about we are told: exercises, maneuvers, and training.

If that is the case, it is difficult to understand what possible objection could be raised to this legislation that I am proposing. If I had my way I would go much farther.

I wanted to stop all of the construction in Honduras because I believe firmly that the facilities already in place are more than adequate to conduct large-scale exercises there. But I realize that there is little chance for passage of an absolute ban on new construction in Honduras.

So I will accept the reality of the situation.

But I think the amendment that I offer represents a workable compromise, and I am sure that my colleagues would not object to placing the limitations on the administration that I am advancing here since the administration claims it is already operating under these limitations.

My amendment really only requires that the administration follow the rules and procedures of the Congress, which my opponents say they are doing already. This is not some argument over congressional prerogatives—this is basic to the checks and balances of our Government.

Simply stated, these new airfields represent a capability that has never been presented to the American people and never approved by the Congress of the United States.

They provide us with a substantial new capability to intervene militarily in Central America that was not present before. And yet the administration has built these facilities with no oversight, with no public discussion, with almost no congressional debate. They have used funds taken from their operation and maintenance account which should be used to buy fuel, ammunition, and so forth, to pursue a dubious military buildup which could have, I think, grave implications for the foreign policy future of this country.

I think there is a very serious question as to whether or not the Congress would have approved these installations and approved their construction, had they been properly and openly presently. Perhaps that is the reason they were not.

I do not think that this is the proper way, Mr. President, for this administration or any other administration to pursue foreign policy objectives.

Under another administration, presided over by a President of my own party, we slipped step by step into a military quagmire in Vietnam, and we only woke up after it was too late. And during the course of those events in the 1960's, the American people felt they had been lied to, and indeed the proof has shown that they were correct in that assumption. and I submit that the relationship between the people of this country and their Government has never been the same since those days when they lost confidence and trust in what their Government was telling them about our foreign policy objectives around the world and what the United States was up to in Vietnam.

That tragic mistake resulted in the Congress of the United States assuming a greater role in overseeing and providing a balance to the military adventures of the executive branch.

This administration appears intent on thwarting those checks and balances and going back to the old way of acting unilaterally. I submit that we here in this body have the responsibility for seeing that that does not happen. We are entrusted with the responsibility of insuring that the administration's policies are in the best interests of our Nation.

Millions of dollars are involved in this construction—all taxpayers' dollars. It is possible that our involvement could lead ultimately to the loss of American lives. We have already lost one American helicopter pilot who strayed over the border into Nicaragua; or something happened there, we are not sure. But despite the stakes in this matter, the administration has chosen to circumvent the regular process. And I do not think that a couple of generals and a handful of unelected officials in the executive branch of the Government, who have masterminded this unwarranted buildup without proper congressional approval, have the authority to do so. They have stretched existing law almost, if not actually, to the breaking point.

The constitutional processes established in our Government exist for a vital and compelling reason—to insure that our policies are established openly as befits a free people and with the full representation from and of the American people.

My legislation puts Congress on record against any backdoor buildup of a military infrastructure in Honduras similar to what we saw in Thailand over 20 years ago. The effect of my amendment would be to require the administration to do what it should be doing already—come to this Congress for approval of any construction in Honduras which is not temporary.

Now let me elaborate for a moment about the risks we are taking in allowing the administration to continue unchecked in its construction plans for Honduras.

One of the two airfields that I mentioned earlier is now being constructed, Jamastran, 15 miles from the Nicaraguan border in southern Honduras. The airfield will be constructed by the 865th Engineer Battalion.

Jamastran is less than 20 miles from the area in the mountains where the Contras are reported regrouping for attacks into Nicaragua. And already heavy fighting has been reported in this area, with substantial loss of life.

In response to the massing of U.S.-backed Contra forces, the Government of Nicaragua has sent tanks and artillery north to protect its borders from the expected attacks. Now we see the administration is placing U.S. troops in an area where it is very possible for them to get caught up in a crossfire. And they are being placed there without being required to state why they are putting them in that location.

When I was in Honduras, I met with the leadership of the Contras. And they made no secret of their desire to involve the United States militarily in their war against the Sandinista government. Now I have no brief for the present Government in Nicaragua. But I think it is clear that that Government cannot be overturned by the Contras alone. The Contras want the United States to intervene militarily on their side. They understand that if troops of the United States were caught in a crossfire, it would substantially increase the risk of U.S. military intervention in Central America.

No U.S. officials have been able to explain to me why we need to build the airfield at Jamastran for the new exercises coming up.

Clearly, with U.S.-constructed airfields and airstrips and runways in virtually every province of that small country, we have more than ample facilities to support the military exercises. Indeed, one Honduran remarked to me that on a per capita basis they have more airfields and airstrips now than any country in the world.

So the question recurs: Why is the Pentagon insisting on building at Ja-

mastran, particularly in the face of such dangers and growing hostilities? It makes no sense to this Senator. In fact, it appears foolhardy and irresponsible.

Let me ask my colleagues: How many of you in this Chamber would have voted to build the airfield at Jamastran if we had had the opportunity to vote in the regular authorization and appropriation process?

Mr. President, I submit that this amendment is moderate. It should be passed. I frankly confess that it does not go as far as I would personally like to see it go. But I think it will stand as an expression of congressional concern. It will stand as a signal to the administration, and to the American people that the Congress intends to be a full partner in the Central American policies of this country. It will say to the administration that we in the Congress are looking over your shoulder in Central America.

Last June, the Secretary of Defense, Mr. Weinberger, told a national television audience "The central fact is we are not planning to build airfields in Honduras or in other places." This was last June. Since that time, we have constructed five and are constructing two more.

It is time for Congress to slow down this construction before it results in tragic consequences. Already, we have seen the tragic consequences of committing our troops to a foreign land without any clear policy objective, without any clear mission. The tragic lessons of our involvement in Lebanon should not be forgotten so soon.

The Secretary of State in recent days has sought to shift the responsibility for the failure of our policies in Lebanon to the Congress. I would say to the distinguished Secretary that the Congress did not put forces in Lebanon. The Congress indicated that the administration had at least 18 months to maintain military forces in Lebanon, yet the administration unilaterally took our forces out of that country in what I think was a wise move. They did so after it became apparent that their policy was not well thought out, that our mission there, whatever it might have been, could not be accomplished. This represents, I think, a signal of foreign policy failure.

That failure in Lebanon did not occur because the Congress did not support the administration strongly enough. I say that if the Congress shares any responsibility for the tragic failure of American foreign policy in Lebanon, it is that we did not step in and vigorously oppose those policies before they resulted in the loss of over 200 young marines, 3 from my native State of Tennessee. We cannot afford to make a similar mistake in Central America.

Mr. President, I urge the adoption of my amendment. I inquire of the Chair how much time I have remaining.

The PRESIDING OFFICER. Twenty-seven minutes.

Mr. SASSER. Mr. President, I will yield to the Senator from New Mexico 10 minutes. Is that adequate?

Mr. BINGAMAN. Mr. President, that is certainly adequate.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would like to commend the Senator from Tennessee for his leadership on this issue, and for the amendment that he has of which I am proud to be a cosponsor.

I want to begin by putting this issue in the context of our Central American policy, as I see it.

I believe we have three major problems with our Central American policy today. The first, I would argue, is the extreme emphasis that we are putting on military support and military funding to solve the problems in that region. We have had extensive debate here in the Senate in the last week focusing on the proper level of military support, and focusing upon what conditions we should put on any military assistance we provide to the countries in that region.

The second major problem with our policy in Central America is the issue we have been debating, yesterday and again this morning, in connection with aid to the Contras, the guerrillas who are fighting against the Sandinista regime with the aid and support of our Government.

The third problem that I believe exists with our Central American policy is the one that the Senator from Tennessee is focusing on with this amendment; that is, the very substantial military buildup, and increase in U.S. presence that is taking place particularly in the country of Honduras.

The amendment that has been proposed here by the Senator is in my view a message to the administration and to the American people that those of us in the Senate, and in the Congress are aware of this military buildup and also that we are concerned about the excessive nature of this military buildup.

The details of it are well known to people who are following this issue, and have been largely recited by the Senator from Tennessee. We have one airbase that we have funded, which I think would be properly referred to by the Defense Department, as a colocated operational base although they generally do not refer to it this way.

I asked in one of our Armed Services Committee hearings if it was not proper to refer to this as really a colocated operational base that we would have with Honduras. This is the facility at Palmerola. The witness from the Defense Department was certainly not willing to accept that characterization totally but could not cite to me any reason why the characterization was improper. It is a facility where the United States has personnel permanently stationed. It is a facility where we have provided a substantial amount of the military support and financial support needed for construction. It is a facility where the Hondurans also have personnel stationed on a permanent basis, and they have provided some financial support for construction also.

In addition to that and La Ceiba which was already a facility, we in the Congress have appropriated funds to upgrade additional airfields and airstrips in the nature of landing strips that the Senator from Tennessee has referred to.

I think serious questions have to be raised as to why this extensive infrastructure is necessary for anything that has been described to us in the Congress as being the policy of this administration. I think it is totally proper that we ask those questions, and require responses. This amendment is intended to require that kind of accountability in the future.

I want to address for a minute the issue of whether or not there is a problem which this extensive building of infrastructure causes. I believe it is mainly objectionable because I see it as closing off the diplomatic options available to this country. We have a great deal of rhetoric coming out of the administration about how we support the Contadora process.

We are looking for opportunities to reduce tensions in the region. But, Mr. President, the fact is that it is extremely difficult to reduce tensions and to find any kind of peaceful solution to the problems of Central America while we are on the other hand pursuing a relentless buildup of our own military presence in Honduras.

I believe sincerely, Mr. President, that based upon the facts that have been laid out by the Senator from Tennessee, it is clear that we are engaged in a relentless, consistent buildup of our own military presence there.

I think the policy is also misguided in that it does increase the likelihood that we will be pulled into a larger military conflict in the region. It does give us a false sense of security. I believe it is clear that, if you look at the history of our involvement in Latin America or elsewhere in the world, having a military base in a particular country does not give us any assurance that that country will be free from influences hostile to this country.

The Guantanamo Naval Base is a clear example of how any sense of security we might feel with regard to our own friendship with the Hondurans should not be based upon our abil-

ity to construct facilities in their country.

A final issue that I think is objectionable about the extensive buildup, and one that is of concern to citizens in this country, is the cost. There is no doubt that the deficit problem we face in this country is never going to be brought under control if we in the Congress cannot even hold the executive branch of Government and the Defense Department accountable for the expenditures they make in a country like Honduras. I think that is a crucial part of what is at stake here.

Let me also say that I believe it is valid to make the point that this amendment is needed, if Congress is going to assert its rightful place in our constitutional system.

Congress has not been involved in the decisionmaking about the military construction that has taken place in Honduras. That construction has been taking place as a side effect or a by-product of what has been referred to here as military exercises or military maneuvers.

Those exercises were first proposed to us by the administration as routine in nature, short-lived in nature. They were to be temporary and not of great concern to us.

Mr. President, I remember a hearing we had in the Armed Services Committee last year, and I asked Secretary Weinberger why it happened that there was a press conference by the Defense Department on the issue of our military exercises in Central America before any action was taken to brief Members of Congress on that.

His response was, "The simple fact is maneuvers are a very standard part of the Department's activities, and exercises of all kinds are conducted all over the world on a regular basis."

The import of his response, clearly, was that this was routine and there was no need to involve Congress in these routine matters; these exercises were nothing out of the ordinary.

As it turned out, the particular exercise, Big Pine I and then Big Pine II, and now Granadero I are part of the routine. These are some of the largest exercises in U.S. military history, and certainly so for that part of the world.

It is clear also that the end of these exercises is nowhere in sight.

I asked General Gorman at one of our hearings what the plans were for future exercises. He conceded that President Suazo of Honduras, "has said repeatedly that he would like to see exercises 2, 3, 4, 5, and 6," but, according to General Gorman, in spite of these statements any future exercises were uncertain because we had to await a determination of whether the country of Honduras would be willing to invite us for additional exercises.

I would submit, Mr. President, that we in the Congress are not getting the full story about our plans in Honduras, and we are not getting the full story about the extent of the military buildup that is in progress in that country.

I think the exercises in that part of the world are anything but routine, and I would suggest that the facilities that have been described by the Senator from Tennessee are anything but temporary.

Mr. President, I believe it has to be of concern for those of us in the Congress.

Mr. President, I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the distinguished Senator from New Mexico.

Mr. President, I commend the Senator for the excellent work he has done in this area in his position as the ranking member of the Military Construction Subcommittee of the Armed Services Committee.

Mr. President, at this time I yield 5 minutes to the distinguished Senator from Nebraska (Mr. ZORINSKY).

Mr. ZORINSKY. I thank my colleague from Tennessee.

Mr. President, I am very happy to cosponsor this measure and to be part of this effort to head off what I believe could be a disaster in Central America. I want to make it clear right at the outset what I am talking about. The disaster to which I refer is direct U.S. military involvement without justification. Yes, the course that we are on in Honduras, where the United States is quickly establishing a permanent military infrastructure, is a course which is leading to the participation of U.S. troops in a Central American war.

Senator SASSER's amendment would help to change this present course toward a U.S. military permanence in Honduras. It would hold the military to its word that facilities are temporary and for use only for military exercises. It would assure that the military would not be constructing airfields and other military facilities for permanent use under the guise of what now seems to be a never ending series of military maneuvers. The U.S. military started out with Big Pine I in Honduras. Then we had Big Pine II. Now the U.S. military is starting Grenadero I and, to be sure, Grenadero II will follow. Or will it be Big Pine III, to be followed by IV, V, VI, VII, VIII, et cetera. Or maybe we should hold a contest to name the next series of exercises.

The Sasser amendment would prevent the conversion of temporary facilities into permanent installations and reasserts that any construction of other than temporary facilities must be specifically authorized and appropriated by Congress. This amendment puts the U.S. military on notice that the Congress is very much aware of its enlarging role in U.S. policy in Central America and that now is the time for this role to be cut back to its normal dimensions, especially in Honduras.

Mr. President, I would like to point out that I do concur with the Senator from Alaska, with his assessment of military threat to this country in that particular region and throughout the world. That is one of the reasons I supported the reactivation of the battleship *New Jersey* and why I supported rapid deployment forces.

But I feel it has not been proven yet to this Senator that we are not capable of defending this Nation in the event of crisis. The defense of this country is paramount and is the bottom line of everything that we do militarily. I would certainly support our continued support of the military.

But in this particular instance, we have carriers certainly capable of taking off and landing aircraft regardless of these temporary airbases being established as permanent facilities.

I think the taxpayers of this country are just getting sick and tired of being the stuckees. Every time we get into a situation like this, we build a temporary airfield; then we make it permanent; then we upgrade it; then we abandon it; then there is a revolution; then we lose control of it; and then our adversaries generally end up with a real great airbase or airfield. I will not take the time to delineate, all over the world, where we have built airbases for the opponents and adversaries of the United States of America that we have turned over to them.

If we are going to build air bases throughout the world to foreclose the possibility of governments speaking against us, then I think we do not need to have aircraft carriers stationed anywhere near that area. We do not need to have in-flight fueling capability. SAC headquarters is very good at doing that. We have the capability to do what needs to be done in that part of the world, without step by step getting us into an involvement accidentally or unilaterally from which we cannot extract ourselves.

Mr. President, we all know the reason for this extensive military activity in Honduras. We all know it is designed to keep the pressure on the Nicaraguan Government and to force the Sandinistas into drastic mistakes with severe consequences for them and their nation. The thousands of U.S. troops on the Honduran side of their border, the increasing number of airfields capable of landing C-130's, and with easy modification, quickly made capable for strategic fighter aircraft, the not-so-secret cooperation with Contra forces, and open cooperation with the Honduran military, present the very real potential for involvement of U.S. troops in a Central American conflagration. As I said on

opening this statement, that is my chief concern.

The people of Nebraska want to support the policies of their President. But I know that the mothers of Nebraska are not willing to send their sons to die in the mountains of Honduras and Nicaragua. I tell you right now, Mr. President, they want to support a policy for peace, not for war. They want to support a policy that strives to engage both the United States and Nicaragua, along with other nations of the region, into a meaningful dialog for peace. The opportunity for peace lies in the Contadora process. I would like the administration to put into practice what they are saying about the process and really put the emphasis on finding a peaceful way out of the morass that faces us in Central America.

I congratulate Senator SASSER on his fine amendment, and I am happy to support it.

Mr. President, I yield back to the Senator from Tennessee.

Mr. SASSER. Mr. President, I thank the Senator from Nebraska for his very perceptive comments. I might say that the Vietnamese and the Soviets are enjoying the extensive facilities we left them at Cam Ranh Bay just a few years ago, facilities which cost the American taxpayers millions of dollars.

I was talking to an American pilot who returned a few months ago from Hanoi. He told me that the first-line jet fighters of the Vietnamese armed forces now are F-5's that the American taxpayers paid for. And I might note that we left behind 971,000 M-16's, at $250 apiece, when we left Vietnam.

Mr. President, I yield 4 minutes to the distinguished Senator from Nebraska (Mr. EXON).

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank the Chair. I thank my friend and colleague from Tennessee.

I am very pleased to join Senator SASSER and my colleague from Nebraska (Mr. ZORINSKY) and several other Senators in cosponsoring this amendment.

This is the most straightforward and uncomplicated of all of the amendments that have been offered to this bill. It simply requires what I believe to be the law affecting appropriations. I think that is what we all want and expect, and if the law is followed, then no one could, in good conscience, vote against the amendment that is presently pending. This amendment simply provides, except for the emergency conditions spelled out in the amendment, that operations and maintenance funds cannot be used to provide for permanent military installations in Honduras.

Why is Honduras spelled out? This could well be applied to all parts of the world. Honduras is spelled out, I suggest, Mr. President, simply because we are at the present time, we suspect, applying considerable amounts of money not appropriated for that purpose to build airstrips and related facilities, which, in a sense, is not only a violation of the law, but bypasses the intent of Congress in the hearings and the detailed studies that have been made therewith.

I simply wish to say, Mr. President, that when you look at Honduras today and understand what is going on there from a public perspective, let alone a closed perspective, any rational person would have to say that we are at this time either preparing for or have in Honduras today an American expeditionary force. But that has not been debated in the U.S. Senate. Maybe we should send an American expeditionary force into Honduras. Maybe that is in the security interests of the United States. But, Mr. President, what we are doing is approaching that through the back door.

I cannot believe that the amendment that has been offered by the Senator from Tennessee does not directly affect this matter. We are simply saying to the administration and to the Pentagon that no money—no money—appropriated for nonpermanent construction facilities can be used to construct permanent military facilities in Honduras. We will debate, I suspect, at some other time, whether or not we should send an American expeditionary force into Honduras if it is not there already. The point is, this amendment says, "Do not misappropriate and use money to build permanent facilities when the money was appropriated for another purpose." That is all it says. Therefore, I urge the adoption of this amendment by the U.S. Senate.

I yield back any remaining time to my colleague from Tennessee.

Mr. SASSER. Mr. President, I thank the Senator from Nebraska.

How much time is remaining on our side, Mr. President?

The PRESIDING OFFICER. Six minutes remain.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SASSER. I yield to my friend from Massachusetts.

Mr. KENNEDY. Mr. President, I know the Senator was good enough to accommodate the leadership by reducing his time from 4 hours to 2 hours. I wonder, if he wants to retain the last 6 minutes, whether I could have 10 minutes on the bill.

Mr. BYRD. How much time does the Senator want?

Mr. KENNEDY. Ten minutes on the bill.

Mr. BYRD. I yield 10 minutes on the bill to the Senator from Massachusetts.

Mr. KENNEDY. I thank the leader.

Mr. President, over the past week, many of us in this body have voiced our concern over the Reagan administration's relentless march toward a military solution in Central America. Nowhere is the rumble of that military buildup more resounding than in Honduras.

This debate on administration policy toward Honduras in the full Senate is long overdue. The administration has involved that country in the fighting in Nicaragua and drawn it to the brink of war in El Salvador.

As a result of the efforts of Senator SASSER and others, Congress and the country are at last beginning to awaken to the full dimensions of the administration's omnious designs on Honduras. Today we have an opportunity to reject this militaristic approach, before we ignite a wider war that could engulf all of Central America. This past weekend, the chief Honduran architect of that buildup, General Alvarez, was fired. Today let us seize this opportunity to press forward to achieve what the Honduran Foreign Minister has called a new impetus to peaceful coexistence in Central America.

Over the past year, the President has presided over massive U.S. military exercises in Honduras. In the course of these exercises, the administration also embarked on a dramatic buildup of military facilities.

Thousands of American troops in Honduras have participated along with carrier battle groups operating off both coasts of Central America.

Let us not forget last summer when the chairman of the Foreign Relations Committee (Mr. PERCY) pointed out to the Secretary of State that not a single Member of the Senate or the House was consulted on the stepped-up show of military force in Central America.

The military exercises, the administration tells us, are to show our friends and our foes that there is a credible deterrent available in the United States. The administration also tells us that military construction is synonymous with commmitment.

But what are those administration commitments? When I asked the Secretary of Defense, he told the Senate Armed Services Committee that we had made no commitment.

The American people are entitled to know what our Government's intentions really are and what risks we incur before the way is paved for a permanent American military presence in Honduras, and before American troops become involved in conflict there.

The risks of conflict involving U.S. forces are real. One American officer has already lost his life when the helicopter he was flying in January strayed into Nicaragua and was then shot down on the Honduran side of the border. More exercises risk more American casualties. Congress must ask whether those risks are warranted.

The big pine series of exercises launched last year were unprecendented in complexity, scope and duration, at times, the Central American isthmus was bracketed by two U.S. aircraft carrier battlegroups and up to 5,000 American troops maneuvered across Honduras. Four airfields have been built or improved during these exercises. Roads have been improved, tank traps dug, and radar stations deployed.

But with the conclusion of Big Pine II in February, 1,900 American military personnel remained behind to prepare for the next exercise. Presumably, when that exercise is concluded, the administration will continue to maintain what it calls a temporary presence. Administration officials have stated that U.S. military forces will be sent to Honduras to train each year for the foreseeable future, perhaps for as long as 20 years.

Last Sunday, the administration began a new military exercise in Honduras called Granadero I. Troops from Guatemala, Panama, and El Salvador have been invited to participate; 800 U.S. Army engineers are to be sent to upgrade dirt airstrips at two strategic locations—one 20 miles from the Salvadoran border and one 25 miles from the Nicaraguan border, not far from where the U.S. helicopter was shot down earlier this year. American military forces are thus being brought ever closer to the conflicts in El Salvador and Nicaragua.

President Reagan was asked at a press conference last July whether he saw any contingency where an incident during training exercises might lead to deeper American military involvement in Central America. In response, he said, "No, I do not really because—first of all, those maneuvers that are going to be held in Honduras are not going to put Americans in any reasonable proximity to the border."

That is what the President told us 7 months ago, but that is not what is happening today. Will the administration assure us today that these forces really will be out of harm's way?

When Granadero I ends, a further exercise is planned for May involving an additional 1,000 troops to be sent to Honduras for antiguerrilla warfare training.

What we are seeing is the establishment of a major and continuous American military presence in Honduras and the construction of a network of facilities that American forces could use in support of contingency plans in Central America.

Senator SASSER has investigated this American military presence with great skill and concern. "Using the screen of military exercises," Senator SASSER has reported:

> The Department of Defense has constructed a number of facilities in Honduras, including airfields, base camps, and radar sites which far exceed the requirements for the conduct of military war games.

These facilities were not approved by the Congress. These facilities were built using funds from the Defense Department's operations and maintenance account, on the justification that these were temporary facilities for use during exercises.

In February, I wrote to Secretary Weinberger, based on my growing concern that administration actions went beyond the scope of existing congressional authorization. I asked for information as to funds in the budget intended to be spent for exercises and military construction in Honduras. I have not yet received that accounting.

Senator SASSER's amendment establishes in law the temporary nature of facilities constructed during the exercises, prevents their conversion into permanent facilities, and limits their use solely to military training exercises. This is the bare minimum we should require of the administration.

Critics of this modest proposal have argued that it serves no useful purpose. I could not disagree more. This amendment will prevent any circumvention of congressional intent. It will also assure Congress of its proper role to exert oversight over the Department of Defense activities in Honduras. The amendment sends an important signal to President Reagan: "Mr. President, do not take us for granted; do not ignore us; most of all, do not deceive us."

I fully support this amendment. I hope my colleagues will do likewise.

I wonder if I could ask the Senator from Tennessee a question. In his own review of those particular facilities and as a member of the Appropriations Committee, does he believe that the kinds of sites being temporarily constructed in Honduras are similar to the kinds of sites which are constructed in other areas of the globe, such as in Western Europe where we do have continuing commitments?

Mr. SASSER. Let me say to my friend from Massachusetts that some of the structures which I saw in Honduras clearly were permanent or certainly semipermanent in nature. I described a moment ago the runway at a place called Aguacate. This runway was already 3,800 feet in length, more than adequate to handle C-130 traffic that would be used in maneuvers and exercises. This runway was extended to 8,000 feet. U.S. combat engineers moved a hill there, they diverted a stream, and they put in a complex culvert draining system under the runway. There was much compaction with substrata of crushed stone, et cetera.

I would say to my friend from Massachusetts that this airstrip was there to stay. The young captain of the engineers who constructed it was very proud of his achievement, and rightfully he should have been because that airstrip will last for many years. And as evidence of its durability, the Southern Command under General Gorman has approved a taxiway and an aircraft turnaround there.

Mr. KENNEDY. Let me just ask the Senator from Tennessee this: The administration is using funds appropriated by the Congress for, as it states, "temporary facilities." Does not the Senator think the Senate should accept the amendment since the administration claims that these facilities are temporary and for the purpose of training exercises? The Senator from Tennessee has constructed language to insure those facilities be temporary in nature and be used solely for training exercise purposes. If the administration is doing what it says it is doing, how can there be any objection to the amendment of the Senator from Tennessee?

Mr. SASSER. I say to my friend from Massachusetts that it is a mystery to me because the amendment states precisely what the administration says it is doing in Honduras. The amendment simply stated says that these facilities, which the administration says are temporary, which are incidental to exercises and maneuvers in Honduras, may be used solely for maneuvers and exercises, which is precisely what the administration says they are using them for.

Now, if that is indeed the case, I am surprised that there would be any opposition to this amendment, and I would expect it to be accepted.

Mr. KENNEDY. Finally, would the Senator conclude that if this amendment were not accepted by the administration, one could quite logically assume it has intentions other than the reasons it has put forward to justify this construction?

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. KENNEDY. If I could have just a minute on the Senator's time.

Mr. SASSER. Let me say to my friend from Massachusetts that his logic is irresistible. Certainly, if the administration has nothing to hide, if these facilities are indeed temporary, to be used solely for exercises or maneuvers, they would accept it. And if they do not, this raises a question as to the real purpose of these facilities.

Mr. KENNEDY. And the nature of the American commitment.

Mr. SASSER. The nature of American commitment, how temporary or how permanent it is intended to be.

Mr. KENNEDY. I thank the Senator.

Mr. SASSER. I thank the Senator.

Mr. President, how much time is there remaining?

The PRESIDING OFFICER. Four minutes and forty seconds.

Mr. SASSER. I yield 2 minutes to the Senator from Rhode Island and reserve the remaining 2½ minutes.

Mr. PELL. Mr. President, I thank the Senator from Tennessee. I am very glad indeed to support this amendment. It was just about 2 years ago, June 30, 1982 to be exact, that I had a similar amendment on the floor of the Senate which would have prevented moving ahead with the airfields at that time. Almost 2 years ago we laid forth the arguments as to why these airfields should not be built, why we should avoid the creeping escalation that was clearly apparent in our involvement in Honduras. Alas, all I got was 29 votes to 65 for the other side.

I congratulate the Senator from Tennessee because I think he has almost more cosponsors to his amendment than I was able to get votes on the Senate floor 2 years ago. But I do think that in this intervening time the American people have come perhaps to agree with the Senator from Tennessee and with some of us in the Senate that it is not a good idea to escalate the way we have been doing.

At that time, 2 years ago, I made an attempt to prohibit funds for the first of the now many military construction projects taking place in Honduras. Since that time the U.S. military has established a significant military presence in Honduras and now this is rapidly becoming a U.S. military permanence. At that time, I warned my colleagues about the grave foreign policy implications of that initial military construction project. I warned about the potential for involving the United States even more deeply into the turmoil in Central America. It was 2 years ago that I used those very words. I also said, at that time, that the military plan of the United States in Honduras:

> Sends a signal to the world, and especially to those in Central America and the Caribbean that the United States is indeed preparing for deeper involvement, including direct military intervention.

I find it starkly frightening that my concerns and fears about the U.S. military activity in Honduras, which I expressed to you many months ago, is happening today at an even more accelerated pace. In 1982 I was talking about activities at Comayagua and La Ceiba. Today, an entire new lexicon of place names in Honduras is becoming familiar to all of us. Palmerola, Puerto Castilla, Trujillo, San Lorenzo, Aguacate, Puerto Lempira, La Mesa, Tiger Island, Cerro La Mole, Jamastran, Cucuyagua, and Choluteca are those that we now know about, thanks to the efforts of Senator SASSER, others of my colleagues, and the work of several staff members in the Senate and the House. As if this is not enough to worry about, what other projects are being planned about which we have yet no idea?

It is a clear fact that the U.S. military has established a significant military presence in Honduras and is rapidly establishing a military permanence. I am aware of the administration's contention that the facilities are temporary and constructed or modified only because of the Big Pine I and II and Grenadero I exercises, but like Senator SASSER, I believe that the military has used the military exercises as a means to establish permanent facilities.

Senator SASSER and others on the Appropriations and Armed Services Committees are rightly concerned about the way the administration has financed this activity without properly coming to the Congress. I share this concern and with it, as ranking Democrat on the Foreign Relations Committee, I am deeply worried about what it means for U.S. policy in Central America. Building on this presence and permanence, with its capability for offensive military use, now we see that the Defense Department for fiscal year 1985 is planning contingency facilities including storage facilities at two airbases for ammunition, including bombs and rockets. As worrisome to me are the plans for the construction of a headquarters and living quarters, as well as an aircraft hangar for an Army aviation unit that would fly reconnaissance missions over El Salvador. Not only is the administration escalating its military activity against Nicaragua, but reconnaissance missions over El Salvador, flown by U.S. military pilots, represent the very involvement about which I warned 2 years ago. Military maneuvers dangerously close to the tense border between Nicaragua and Honduras and U.S. pilots in operations in El Salvador are bringing this Nation ever so much closer to direct intervention in a Central American war. The shooting down of a U.S. helicopter in January, with the death of its U.S. military pilot, because it flew over Nicaraguan airspace, could very well mean that we are already more involved than is officially admitted.

We are very much further down the road to military involvement in Central America than we were 2 years ago when I first called attention to the implications of the administration's policy in Honduras. I am very much afraid that 2 years from now we will be dealing with the much more serious consequences of actual U.S. military involvement. There still is time, although I fear it is getting very short. The Congress must act now to get our policy back on the right road. The road to peace in Central America is not a military permanence in Honduras. In the interest of peace, I urge my colleagues to support this excellent amendment by Senator SASSER.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I yield myself 2 minutes from the bill.

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

Mr. INOUYE. Mr. President, I support this amendment, not because I question the veracity of the Department of Defense. I do not. I take the word of the officials of that Department. If, as they say, these facilities are temporary, fine. But if the Department of Defense has any wish to make these facilities permanent, then, Mr. President, I think the legislative process must be brought into the responsible position. The appropriating committees should be asked to act upon the request, and, therefore, I think that this amendment is one that all of us can accept. We do not question DOD. We just say if they want to make it permanent, come up to Congress.

I am pleased to be listed as the primary cosponsor of this amendment. I know of the work of Senator SASSER and of his efforts to obtain firsthand knowledge of the extent of military construction in Honduras. I strongly support his efforts to calmly and dispassionately inform the Senate of a situation which causes me great concern. I believe it is a situation which should be of great concern to everyone in the Senate.

Senator SASSER has documented the existence of a network of permanent and semipermanent installations in Honduras which have been constructed in the course of military training exercises. These installations are said by officials of the Department of Defense to be merely temporary and to be installations which are used solely in the context of exercises. Senator SASSER has raised serious questions about the validity of these assertions. I share his concern and, accordingly, I am joining with him to propose this amendment.

Mr. President, the amendment does not place an onerous burden on either the President or the Department of Defense. The amendment is nothing more than a restatement—a reiteration—and a clarification of current policy. It is nothing more than that. Yet, I believe it is necessary because elements of confusion have entered into the debate and have left reasonable concerns and reasonable doubts unanswered. Senator SASSER and I and others seek to remove that doubt.

What does this amendment do? It allows the Department of Defense to utilize temporary facilities which have already been constructed or those which may be constructed in the course of future exercises. It says that these facilities may be modified, they may be improved, they may be maintained. It serves the announced purposes for which the facilities were constructed.

What does this amendment not do? It does not allow the use of U.S. funds—funds which have been appropriated to the Department of Defense for operation and maintenance—to be used to upgrade, or to convert to permanent use, any of these temporary facilities without—and this, Mr. President, is a significant exception—without the specific authorization and appropriation by the Congress of the funds required for such conversion.

Mr. President, Senator SASSER has spoken quite eloquently on the dangers of increased U.S. military involvement in Honduras. He has also spoken of the threat to the infant democracy in Honduras which is posed by the expansion of military spending and military influence in political affairs. He has also spoken of the diversion of the meager resources of the Honduran Government to military activities and away from programs and activities which support the basic necessities of life for the poor. And I trust I need not remind the Senate that Honduras is, after Haiti, the poorest country in the Western Hemisphere. I will not review and comment on these conditions which Senator SASSER has addressed in his remarks.

Mr. President, I have confined my remarks to aspects of U.S. military involvement in Honduras which are of direct concern to the Senate. And the most basic of those concerns is the restoration of congressional authority and responsibility in military construction conducted by our Government. If the administration does not intend any more than it has said it intends, if the Department of Defense accepts, as it is bound to accept, the appropriations role of the Congress, there can be no objection to this amendment. I would hope that all of my colleagues will vote in favor of the amendment proposed by my good friend, Senator SASSER. We all owe him a debt of gratitude for the dedication and persistence with which he has pursued this matter.

Mr. SASSER. Mr. President, I thank the Senator from Hawaii for his support and his work in this area. I reserve the remainder of our time, Mr. President, which I think amounts to 2½ minutes. Is that correct?

The PRESIDING OFFICER. Yes.

Mr. SASSER. Mr. President, I reserve the remainder of my time.

(Mrs. KASSEBAUM assumed the chair.)

Mr. STEVENS. Madam President, here we go again. We have been told here for the last 1½ hours that this is a new thing; that it is too bad Congress did not know anything about it. I thank Senator PELL for coming in and reminding the Senate that not only were we briefed about it 2 years ago, but also, we debated it 2 years ago. We faced up to this question. We were told what was going to happen, and that is exactly what happened.

When I came back from Alaska in February, I found that the junior Senator from Tennessee had made some rather serious allegations and that he was going to take a trip down to Honduras, because he, as a member of the Military Construction Subcommittee, had alleged that the funds coming from the Defense Subcommittee of the Appropriations Committee had been improperly used to build permanent facilities. It was reported that he alleged all sorts of things in Honduras, and I have photographs we obtained when we went down to see about his report, to demonstrate the authenticity of some of the comments he has made.

I found that his report indicated a whole series of things, and one of them, I am happy to say, he has dropped, I assume—the allegation that military medical facilities and the use of funds under the operation and maintenance portion of the defense budget for those facilities and for medical care in Honduras violated the law. I find it interesting that before he went to Honduras, he announced that these facilities were being built without specific congressional approval.

Madam President, this is going to take a little while, to set this record straight. I am not sure we really need to do so. I hope the Senate has sense enough to know the difference between military construction on one hand and operation and maintenance on the other.

I hold in my hand a photograph of the Palmerola airfield, which was described at length by the Senator from Tennessee. He knows that that is military construction. He has just said to the Senator from Massachusetts that he saw some permanent facilities. He did. He authorized them. He sat there and listened to the testimony for the last 4 years when we were told about this. Every year we have been told what they were going to do in military construction.

It is one of the permanent facilities; it is a good facility. It is a joint United States-Honduran facility, and the funds were duly authorized and appropriated by Congress for a permanent facility in Honduras, a jointly shared facility, as I said.

I do not think the Senate ought to be confused by the statement that he has seen permanent facilities down there. We saw permanent facilities, too. What we also saw down there were facilities for use of the military under temporary conditions, for the maneuvers that we are conducting down there.

The Senator has mentioned the GAO report. It was actually a briefing. The GAO told us that the net cost of 2 years' operation in Honduras was approximately $50 million, for these exercises that we conducted down there. These are exercises that use units from throughout the country, to give them their yearly exercise.

We have the bills for the annual damage we pay to Germany, for tanks coming across farmers' property or damage to private property. In Germany, it is $50 million.

The annual cost in Germany for damage to personal property by our exercises there is more than 2 years' cost for these facilities, for the total net cost of these operations down there. I have put in the RECORD the list of the units that are going there.

Let me remind people what we are talking about. In the second exercise, Big Pine II, there were ground forces from McDill Air Force Base, Fort Carson, Fort Rucker, Fort McClellan, Fort Sam Houston, Fort Campbell, Fort Bragg, Fort Golick, Camp Lejeune, Fort Huachuca, and Gulfport.

From the Air Force, there were elements from Andrews Air Force Base, Md.; New Castle, Del.; Nashville, Tenn.; St. Joseph, Mo.; Warwick, R.I.; Mansfield, Ohio; St. Paul, Minn.; Van Nuys, Calif.; Anchorage, Alaska; Willow Grove, Pa.; Youngstown, Ohio; Memphis, Tenn.; St. Paul, Minn.; Charleston, W. Va.; and San Juan.

Most of those I have just read—as a matter of fact, all I have just read were either Air Force Reserve units or Air National Guard units, They are on duty for 2 weeks a year—2 weeks—and the Senator from Tennessee alleges that we are building permanent facilities to house them.

Madam President, I am going to walk to the rear of this Chamber to look at these photographs. I hope that when Members come to the floor, they will look at these photographs. There are copies on the table in the well. These are photographs we had taken.

The Senator from Tennessee says that the Republicans were led to a swamp when we were down there. Incidentally, as chairman of the Defense Subcommittee, I invited every member of our committee, Republicans and Democrats, to look into the charges made by the junior Senator from Tennessee. I was accompanied by three other Republicans. None of the Members on the other side chose to come and see the facts.

I point out that before he went to Honduras, the Senator from Tennessee had made up his mind. This is one of the areas he alleged in his first

report was a permanent facility. By the time we got there, it was shown what it was. It was an operation by the Seabees to build temporary quarters under swampy conditions.

It is a fact that sometimes in war you have to build those facilities, and this is one of the facilities. If you examine this, you will find that these facilities are being torn down. They were temporary in nature and they were, in fact, temporary.

Mr. SASSER. Madam President, will the Senator yield?

Mr. STEVENS. I did not interrupt the Senator from Tennessee, and I do not intend to be interrupted at this time.

Mr. SASSER. Madam President, will the Senator yield?

Mr. STEVENS. I do not yield, Madam President.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. This Seabee project is one of the temporary facilities that is now being criticized. If a unit were to come back in and ask to occupy this, the amendment of the Senator from Tennessee would prevent the upgrading of any of the facilities. Even though they were temporary in the past, you could not upgrade these. You would have to move the National Guard Reservists back into these things. They have been abandoned for almost a year. You could not spend any money to make their lives comfortable there for 2 to 3 weeks. This is the way they lived without them. I urge Members of the Senate to see them.

When I walked through those tents, it was 100 degrees in those tents. The difference between those tents and these facilities in cost is that these cost less. These are semipermanent, as he says, facilities; what I call temporary facilities. I mean they are double temporary—temporary squared facilities. The only difference is that they have a chance for a little ventilation and they have a roof on them that is somewhat permanent for the time they are there. These blow down, and they have been replaced time and time again. As a matter of fact, in one squall, the whole camp was blown down.

Besides that, the tents, per copy, cost more than these huts cost per copy. If you are talking about expense, listen to the Senator from Tennessee if you want to spend more money. We went down there to see if this money was being spent properly.

Here is one of the runways he criticizes. This is the San Lorenzo runway. Currently, this runway has large gouges in it from the rains that have taken place, even since we were there. At the time we were there, you could land a King Air. That is a small, twin-engine, prop plane. It was not C-130 capable, and now it is not even capable for that, because of the conditions and the way it was built. It was built as a temporary facility for part of an exercise. If we went back there to have an exercise again, under the amendment of the Senator from Tennessee, you could not upgrade or repair this facility.

Let us think about what we are doing. This is a C-130. We see a lot of these in Alaska. If you build an airstrip like that in our State, once you are finished using it in a temporary military exercise, under the laws of the United States you have to restore the land to the condition in which it existed prior to the exercise.

The cost of restoring that land in Alaska is twice as much as it costs for the military exercise of the Corps of Engineers to build an airport.

So the question is: Should we spend money in the United States, whether it is my State or any other State, to exercise these military reservists, Air National Guard, the National Guard of the Army, whatever of these units they are, and put our money in and then bring in the people to clean it up, to restore the conditions? Should we spend three times as much money for each exercise, or should we go to a place like Honduras where, incidentally, we have been having exercises now for 7 years?

All the Members of this body have been familiar with the fact we have had exercises for 7 years. They were conducted by the former President. They have been conducted by this President. Should we go there where their conditions in that country are so bad that we look at this map—they have very little road structure—they have very little in terms of air commerce. Should we build these runways and leave them, even though they are temporary? At least they are a step up for the Government of Honduras.

They have said: "Do not restore the natural condition. Leave them there. The time will come, we think, when we may have money to make those at least into a facility that can handle normal air commerce in our country."

As I said, there are the aircraft. This is the Hercules that we went in, and I am sure the Senator from Tennessee went in. If you look at it carefully, you can see the ruts in that runway. This is the runway that he criticizes most.

We questioned the young major of the Corp of Engineers who was in charge of this construction still there moving out from the last exercise. He told us 25 Hercules landings could be made on that strip without rebuilding it.

The Senator's amendment says you cannot use any funds hereafter to upgrade any facility. You could not resurface this dirt airstrip.

Incidentally, it was a gravel surface. Anyone who knows anything about airports will tell you there is no subsurface on this. It was an existing airstrip that was improved as a temporary facility.

Again, if they ever get to it and put in air commerce for light aircraft, or the kind they use in a country such as Honduras for internal traffic, the King Air or small aircraft that we use a lot—we call them bush airplanes in Alaska—a portion of this strip could very well serve the people of an area such as that which is roughly up in this area.

If you look at it, there is no other airport in the whole place, no other airport in that area.

This may give them a chance to have produce flown in, have any kind of small equipment flown in.

But he would rather say, "Now wait a minute, you should comply with U.S. law when you are in Honduras. Tear that up."

Under his amendment there is nothing that says you cannot spend our taxpayers' money to tear out this facility. Destroy it so those people down there cannot possibly have any benefit from our participation.

I find it strange indeed that we are dealing with a people—incidentally again in this hemisphere there is no greater example than last week of a democracy in what happened when the President of this country found out that the commander of the armed services was getting involved in civilian politics, and he was removed. He was not only removed, he was flown out to an adjacent country, and the other generals with whom he was cooperating were removed.

It was one of the greatest exercises of civilian control over the military that I have seen in this region. The Honduras general was removed.

Mr. SASSER. Madam President, will the Senator yield on that point?

Mr. STEVENS. I will answer the Senator's questions when I am through, and I will yield when it is time to do it. First, I am going to finish my statement.

The impact of this, as it was alleged, if you look at some of the comments of the Senator from Tennessee before, he alleged that we are cooperating with the military dictator and we were guarding a military dictator. We have just seen, as it has been reported in the press throughout the world, that that President removed what he considered to be a threat against the civilian government from the military side and did it overnight. There has not been a revolution. It was not a coup. Their senate has now met and appointed a new commander of their armed forces.

I personally called General Gorman about that and talked to him. We had briefings with the State Department to assure ourselves before we came to the Chamber to meet this amendment

that we were dealing with a situation which was not a military coup but was in fact a civilian movement to remove a threat against their civilian democracy, and they are proceeding as a democracy.

Madam President, I wish to read this to the Senate, what is in the bill now, because to listen to the Senator from Tennessee you would think this is a brand new idea, a brand new fresh idea, that we should somehow or other limit these funds. Listen to this on page 6. This is the Johnston-Sasser amendment that is already in the bill.

Notwithstanding any other provision of law, no funds appropriated to the Department of Defense for operations and maintenance for fiscal year 1984 may be obligated or expended after the date of the enactment of this Act for the construction, modification, or improvement of any military facility in Honduras, other than temporary facilities, unless such funds have been specifically authorized and appropriated for such purpose by legislation enacted by Congress or unless the President determines and provides prior notification to the Committees on Appropriations, Armed Services, and Foreign Relations that an unforeseen emergency exists which requires such construction, modification, or improvement.

Senator SASSER's amendment deletes his own language that he presented to the committee. That last provision about the Presidential determination of an unforeseen emergency was not my language; it was his. Now he wants to delete it.

If I ever saw an election year rhetoric, this is it. Suddenly, El Salvador having been solved, we are going to turn Honduras into Vietnam. There is not one single fighting man of the United States in Honduras involved in any kind of military combat. This has been a training zone. It has been a training zone for 7 years. It continues to be one.

One of the most cost-effective things we are doing in the whole military is in Honduras.

I have never seen such gross exaggeration and overstatement in terms of military operations. That is why we went down there.

I do not take lightly to comments that are made by other Members of the Senate that we have not been doing the job we should do on the Defense Appropriations Subcommittee, and I think the Senator from Mississippi, if he were here, would affirm the fact that we pay quite a bit of attention to what is going on with O&M funds.

Madam President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Georgia (Mr. MATTINGLY) which appeared in the Atlanta Journal Constitution on March 25, 1984.

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

ATTACKS ON AMERICAN AID TO HONDURAS CLOUDED BY ELECTION-YEAR POLITICS

(By Mack Mattingly)

A debate has begun in Washington on whether our military presence in Honduras is temporary and duly authorized by Congress or is permanent and unauthorized. It is no coincidence that this debate has been primarily sparked by members of the party that is seeking to regain the White House.

As chairman of the Military Construction Appropriations subcommittee, I have closely examined so-called evidence behind these charges and insinuations and can only conclude that this controversy is just another partisan exercise in a presidential election year.

So what else is new, you say? Only the absurd levels to which the attacks on our assistance efforts in Honduras have sunk.

Instead of stating up front their obvious opposition to any U.S. presence in Honduras, the critics focus on such strawmen as whether medical assistance rendered by U.S. forces to the Honduran people during the recent training exercises was a "legal" use of the taxpayers' dollar.

Rather than having a meaningful debate on what U.S. policy goals in the region should be, we are confronted with self-righteous spasms of legalistic hair-splitting.

To a large degree, House and Senate critics have based their charges on "findings" by the General Accounting Office that the United States is "engaged in a continuing, if not permanent, military presence in Honduras."

Criticisms were voiced about such U.S. military activities as instituting children's vaccination and dental health programs. If such activities are technically beyond the scope of the troops' statutory authority, then let's change the law. Let's not use such desperately needed humanitarian assistance programs as a rationale to cease U.S. involvement in the region.

These GAO "findings" take the form of classified, verbal presentations to a few members of Congress and classified written answers to one congressman's questions. There is no official GAO document or report available for public review, only the privately expressed opinions of several GAO staffers replete with personal biases and ideological prejudices.

Recently, I traveled to Honduras for the second time. I found a poor country, struggling to nourish an infant democracy while at the same time facing the threats posed by the largest military force in Central America across the border in Nicaragua.

I visited the facilities constructed for use during our recent joint exercises with Honduran forces. Members of the American press in Honduras were invited to accompany me and my three Senate colleagues during the tour. Democrat as well as Republican members of both the Appropriations and the Armed Services committees were also invited.

The facts are there for all to see.

To attempt to term these already decaying training facilities as permanent is ludicrous. Temporary huts constructed for housing are already crumbling. Airstrips built for these maneuvers are just a few landings away from becoming too rutted for use without significant rehabilitation—for which the Hondurans do not have the necessary equipment to accomplish.

What is going on here? you might well ask. The answer is politics.

By playing fast and loose for political gain with an issue so crucial to the true vital interests of the United States, such critics endanger those very interests. What are those interests? The security of our borders, open sea lanes and the growth of democratic institutions.

I will concede to the critics that a more visible and comprehensive plan for promoting the stability, prosperity and freedom of Central America is needed. I am ready and willing to enter into a rational and straightforward debate on the shape and content of such a plan. I am not willing to stand by and watch as the discussion of the future of Central America and our hemispheric security disintegrates in a tangle of legalistic micromanagement and technical-finger-pointing.

Of one thing we can be certain American interests cannot be left to depend solely on the good will of the area's Marxists.

Mr. STEVENS. Madam President, I ask unanimous consent to have printed in the RECORD an article I wrote in response to the Senator from Tennessee which is entitled "We Looked in Vain for Those Permanent Bases."

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

WE LOOKED IN VAIN FOR THOSE PERMANENT BASES

(By Ted Stevens)

As one of the four U.S. senators who just completed a fact-finding trip to Honduras, let me set the record straight about U.S. "bases" in Honduras.

On our trip, Sens. Rudman, Mattingly, Wilson and I visited all but one of the contested bases, and whenever there was room we added members of the U.S. press in Honduras to go along.

There is no secret about what the U.S. is doing in this Central American nation, despite that inference from some critics of the administration's policies. These critics suggest that permanent bases are being built with operation and maintenance funds Congress appropriated for the Department of Defense for joint military exercises in Honduras.

We looked in vain for those permanent bases.

The closest thing to a U.S. base built with operation and maintenance funds that we found was a small training headquarters detachment, housed in temporary buildings—called CAT (Central American Tropical) huts—near Comayagua in Central Honduras, about 60 miles north of the capital. The number of U.S. troops staying there varies from a few hundred to 1,800, depending on whether a training exercise is in full swing.

Those CAT huts, incidentally, are built of wood—two by fours and plywood—with corrugated metal roofing, and no insulation or plumbing. They're definitely not permanent structures, and we'll be fortunate if they survive the current series of training exercises.

There are some permanent improvements under way at an adjacent Honduran air base, but that construction was duly authorized and funded by Congress. We will have access to the Honduran air base for refueling, for parking itinerant aircraft and for fuel storage.

Other than these facilities, U.S. military activities in Honduras were restricted to two small radar posts on isolated mountaintops and another training detachment—supported by congressionally approved foreign mili-

tary assistance—at the Honduras regional military training center near the town of Trujillo on the northern, Caribbean coast.

What are the alleged U.S.-constructed "air bases"?

They are three marginally improved dirt strips, plus one paved strip at Trujillo that was extended to make it able to handle C-130 transports. Since that strip was already paved, the 600-foot extension also had to be paved. But even this strip is temporary, because we found the light paving already breaking up.

All of these strips have little or no supporting facilities. It would be kind to call them primitive.

Critics questioned the expenditure of medical teams that were flown by helicopter to remote Honduran villages. Adults, children and newborn babies who had never seen a doctor were treated and given inoculations. This was realistic training for our medical teams, but more importantly it gave the U.S. the humanitarian image we all seek. If the critics want to make an issue that this activity is not fully consistent with U.S. law, then I'll do my best to change that law.

I am convinced that our activities in Honduras are entirely legitimate and above board. Congressional committees were briefed on plans for the Big Pine exercises and on our efforts to help the Hondurans not only with joint training programs but with congressionally authorized military construction and foreign assistance.

Anyone who is aware of the Soviet- and Cuban-assisted military buildup in Nicaragua should agree, I believe, that it is essential to help Honduras both militarily and economically. We are doing just that. And, our goal is to avoid war, not get ready for one.

Critics may say there is no danger to Honduras from Nicaraguan militarism, but the Hondurans we saw and talked with—those who live next door to Nicaragua—had an entirely different view. They told us of North Korean, East German, Soviet and Cuban equipment and training elements in Nicaragua, which has more than 100,000 soldiers in its armed forces now. We were told there is evidence that Nicaragua wants 250,000 men under arms.

Why does Nicaragua, a nation with 3½ million people, need a 250,000-man military force with Soviet tanks, ships, aircraft and artillery? Obviously, the Soviets want a land route throughout the Americas.

I believe in the concept of the Monroe Doctrine. We should contine to demonstrate clearly that we will help Honduras and other Central American countries prepare to defend themselves and that we will not countenance the Nicaraguans exporting Soviet-Cuban revolutions in our hemisphere. Incidents on the Nicaraguan border dropped precipitously after our last joint exercise with Honduras.

Our own forces gain from the opportunity to undergo sustained operations in remote areas, and the cost is comparatively inexpensive. A General Accounting Office estimate placed the two-year incremental cost of U.S. participation in these joint training exercises at roughly $50 million. By comparison, in West Germany our government incurs an annual average cost of about $50 million just for maneuver damage claims—only a part of the net U.S. military training costs in Germany.

Anyone is free to disagree with U.S. policies in Central America. But the debate on those policies should be honest and fair.

Mr. MATTINGLY. Madam President, will the Senator yield?

Mr. STEVENS. I will yield in just 1 second.

Let me say that I am disturbed by the Senator's amendment. As I have already indicated, it says: "No funds * * * may be obligated or expended to upgrade * * * any temporary facility," meaning that, my gosh, in Anchorage when they go down there to 100-degree weather, from 60 degrees below in Anchorage—it never gets 60 below, really—that is Fairbanks—make that 20 degrees below—but in any event, when they go down there and suddenly they find themselves in 100-degree weather, we could not change the tents to those temporary facilities.

We could not eliminate the ruts from the 25th Hercules and make it safe for the 26th one to land.

I just cannot understand an attempt to make Honduras into Vietnam. I think that the American public is being misled by, again, election year rhetoric of the kind I have never heard before.

Now, the Senator from Tennessee, when he presented this amendment to the Appropriations Committee, had a legitimate proviso in it that dealt with emergencies. This time he limits it to facilities necessary for the evacuation of U.S. personnel.

We do not have any people down there to evacuate. We have up to 1,200 people there in between exercises and they are authorized permanent facilities, for the most part. That one I mentioned, Palmerola, that is where the permanent airbase is.

This is a snare and a delusion, this is snake oil for a political year, and I think we have to label it as such. I personally would never support turning Honduras into some sort of a permanent armed camp. To listen to these people, you would think every little bush is bristling with guys standing up like they were behind hedge rows in Europe on D-day.

These are my guys. I know those guys in the Alaska Air National Guard and I know how long they were there. The Senator ought to know the ones who were from Tennessee that were down there. I bet the Senator has not talked to them.

Mr. SASSER. Will the Senator yield on that?

Mr. STEVENS. As I mentioned to the Senator from Georgia——

Mr. SASSER. If the Senator will yield, on the subject of Tennessee units, I think I can enlighten him. Yes, there were units from the State of Tennessee there. In addition to Air National Guard units there were units of the 101st Airborne Division which is headquarters in Fort Campbell near Clarksville, Tenn.

Mr. STEVENS. Madam President, I yielded to the Senator and I yield no more.

Again, I state for the record that the unit that was there in the last exercise, Big Pine II, from Tennessee was the 155th Tactical Air Squadron of the Air National Guard that was flying the C-130's. They ought to be interested in whether a base is capable of taking C-130's. The reason I asked the Senator, I hoped that he would understand that his people were flying C-130's.

I state to the Senator that I will have a substitute to offer to conform this to the action that the Senate has already taken in committee which would restore the Senator's own language that he offered in the Appropriations Committee to deal with the emergencies and to delete that word "upgrade," because not being able to upgrade the facilities that are there now would literally prevent the use of funds in the next fiscal year to make these facilities, that are absolutely temporary, habitable.

I suggested to them that when I was in China we had tents in World War II, but we lifted them up and put a base of wood underneath and put the tents on top so we were able to open them up in the bottoms in the summertime when it got very hot. On these, the only thing you can do is lift up the flaps. And when it is raining hard, you get all wet and if you put them down the place just turns into something like a steam bath. And ask any one of the Members who were with us, that is exactly how I felt when I walked through those tents—that I had been in a steam bath. There were these young guys sitting there and all of them were sitting in their skivvies. There was not one of them that was dressed. And I do not blame them. They could not possibly even exist inside those tents in the daytime dressed.

Does the Senate really want to send American servicemen, who are reservists and National Guard people, Army guard people, as well as active personnel, into training in a situation where the Department of Defense is prohibited from taking even the simplest actions to upgrade the facilities for their convenience and their use? I do not think so.

I yield to the Senator from Georgia such time as he may want.

Mr. MATTINGLY. Madam President, I thank the Senator from Alaska.

Madam President, I rise in opposition to the amendment of the Senator from Tennessee.

The amendment represents an effort to fine tune the authorized uses of operation and maintenance funds from the Department of Defense to an unmanageable and unnecessary degree.

The limitations imposed by the amendment would seem to prohibit temporary facilities constructed in

Honduras from being used for such vital tasks as disaster relief operations and possible future contingency operations.

Furthermore, under its provisions, U.S. forces temporarily using living quarters constructed for joint exercises could be forced to vacate these quarters and lodge themselves in other, less secure facilities.

In the words of a Wall Street Journal editorial of March 14, 1984:

. . . Some legislators . . . have been scrambling around the Honduran jungle measuring the length of runways and asking whether the Army's corrugated huts are permanent. The war can wait while they decide if the U.S. is doing too much for its friends. . . . such is the legacy of the . . . attempts by Congress to involve itself in the micromanagement of foreign policy and military affairs.

Madam President, I ask unanimous consent that the editorial be placed in the RECORD at this point.

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

[From the Wall Street Journal, Mar. 14, 1984]

THE NEO-ISOLATIONISTS

President Reagan found himself yesterday begging Congress for funds to resupply forces trying to beat back communism in Central America. But as the debate by Sens. Stevens and Sasser on this page last Friday indicated, some legislators have more pressing concerns. They have been scrambling around the Honduran jungle measuring the length of runways and asking whether Army's corrugated huts are permanent. The war can wait while they decide if the U.S. is doing too much for its friends.

Such is the legacy of the War Powers Act and similar attempts by Congress to involve itself in the micromanagement of foreign policy and military affairs. The U.S. may be facing a world-wide Soviet challenge to its political interests and influence, but Congress insists on assuming the constitutional duties of the commander in chief. Moreover, Sen. Gary Hart is out on the campaign trail listing places where he would retreat from that Soviet challenge.

Soviet Americanologists, poring over their U.S. history books, must be thrilled. "My dear tovarish," we can hear seventh deputy minister Boris saying to eighth deputy minister Ilyich, "we are witnessing a rebirth of American isolationism."

Y'know, Boris, you just might have something there. Not to be outdone by the Kremlin's keen students and would-be manipulators of American politics, we've been going over the history books ourselves. There indeed are some fascinating parallels between the War Powers chatter now going on in Congress and the debates on a succession of neutrality acts by that same body in the 1930s. The principal difference is that at that time conservatives in Congress were attempting to restrict the freedom of movement of a Democratic president, Franklin D. Roosevelt, whereas today congressional liberals are tying the hands of a conservative president, Ronald Reagan. The similarity is that Congress in the name of avoiding war is making war more likely.

Much like today, the 1930s neutrality acts gained momentum from spurious information. They were a response to hearings by North Dakota Sen. Gerald P. Nye that concluded—on the basis of no persuasive evidence—that U.S. munitions makers ("merchants of death") had suckered Woodrow Wilson into entering World War I. The first neutrality act, prohibiting the president from taking sides in any wars, was beautifully timed with the Italian invasion of Ethiopia in 1935. The fourth, which finally gave Roosevelt some meaningful freedom to aid the French and British, was passed in November 1939, well after Hitler and Stalin had jointly savaged Poland in the inaugural atrocities of World War II.

Wrote Thomas A. Bailey in his "Diplomatic History of the American People" (Appleton-Century-Crofts, 1958), the U.S. was "one war too late in its attempt to legislate itself into neutrality. Such legislation might have prevented embroilment in World War I. But timed as it was, it tended to accelerate World War II, into which the United States was ultimately sucked."

The Nye Committee's distortions have their parallel today in the demagoguery that implies that it is U.S. policy to support only the worst elements of that large population in Central America that is attempting to resist communism. If you're looking for highly colored words today to parallel "merchants of death," try "death squads." If you looked in your local newspaper for an AP account of the people of San Vicente, El Salvador, protesting a communist killing of a Red Cross ambulance crew and a schoolteacher, you may not have found it. Some editors don't regard communist atrocities as news. The Washington Post reported the incident, but not that leftist guerrillas were responsible.

Isolationist politics have a seductive appeal. Americans, being sane and reasonable people, do not like war. It is tempting to believe politicians who say that all we have to do to avoid war is to simply avoid it. But even the politicians selling that line know it isn't really true, particularly in Central America. Congress wants to have it both ways—to posture as being on the side of "peace" and to avoid any responsibility for the outcome of its policies in the real world. The War Powers Act itself is carefully designed for this purpose—allowing the Executive Branch just enought authority so Congress can't be blamed, but not enough to achieve any objective.

The fallback argument of the Clarence Longs and Chris Dodds of Congress has always been that if things get bad enough down there, there will be full support for going in with massive U.S. force. That is, of course, what actually happened in the 1930s and 1940s. But by the time the Congress got done debating neutrality in World War II, a lot of people were already dead, and that late awakening no doubt added greatly to the toll of U.S. deaths that followed.

Mr. MATTINGLY. Madam President, as chairman of the Appropriations Subcommittee on Military Construction and as one Senator who has twice visited Central America, I can testify that there has been no end run around this subcommittee's jurisdictional responsibilities by the Department of Defense.

The Department of Defense does wish to construct certain permanent facilities and has submitted its request for authorization and funding of those projects to the Armed Services and Appropriations Committees as part of its budget request.

As it has done in the past, the Military Construction Subcommittee will carefully examine the requests and insure that the facilities being requested meet the standards and the criteria that the subcommittee uses during its examination of similar project requests around the world. In fact, no funds are going to be approved by the Subcommittee for Military Construction projects in Central America until we have received the comprehensive plan for regional military construction that the subcommittee requested from the Pentagon last year.

So, Madam President, safeguards are in place. The Armed Services and Appropriations Subcommittees are performing their functions. Quite frankly, I find it difficult to understand the reasoning behind such an amendment as that offered by the Senator from Tennessee.

It seems to imply that the United States is somehow the villain in that region of the world. It seems to imply that, unless U.S. military joint exercises are continually, microscopically examined by the Congress, the United States will wreak havoc in the area; that the United States is the problem and the fountain from which all the problems of that beleaguered region flow.

Well, Madam President, the United States is not the villain. It is not the United States that has seized upon the unrest created by poverty beyond misery and used those circumstances to foment revolution and violence. It is not the United States that is closed and totalitarian, Madam President, it is the Soviet Union.

It is not the United States that is imperialistic and expansionist, Madam President, it is the Soviets and their Cuban puppet.

And it is not the United States, Madam President, that is an exporter of terrorism and revolution, it is Nicaragua.

So at the very least, Madam President, I wish to make plain that this is one Senator who is still able to distinguish between those who are attempting to establish some democratic institutions in the region and those who seek to continue their campaign to snuff out any vestige of true democratic reforms.

I might add that, if one were to base a decision merely on a reading of the news reports that have been carried in the Washington Post and the New York Times and after watching the nightly network news reports, it would appear indeed that the United States is the villain.

But the facts are otherwise and the overwhelming support that this body has given the policies of President Reagan during this debate, as evi-

denced by the votes we have taken, is to me a clear indication that the vast majority of the Senate understands that vital interests of the United States are at stake and can distinguish between those who desire freedom and democracy and those who seek to destroy it.

Last night we spent hours debating the levels and uses of aid going to the Contras in Honduras. But there was little attention paid, Madam President, to the levels of military equipment and assistance that has been pumped into the region by the Soviets and their clients although the Senator from Alaska tried to make that point.

As a Nicaraguan citizen now living in Atlanta recently wrote in a letter to the editor of the Atlanta Constitution:

> If the Sandinista Government is allowed to remain unchallenged, the Communist threat will continue to expand to the doorstep of the United States, not by the will of the people, but by the same totalitarian control now afflicting my country.

The Congress needs to face some harsh, cold facts, Madam President.

In his eloquent address 2 years ago before members of both Houses of Parliament at the Palace of Westminister in London, President Reagan said that "if history teaches anything, it teaches—that—self-delusion in the face of unpleasant facts is folly."

I am fond of quoting that statement, Madam President, because I believe that it speaks to many of the issues that we face in the Senate and I believe that it most certainly applies to the decisions that need to be made in regard to policies that the United States will pursue in Central America and in Honduras.

The legislation under consideration, House Joint Resolution 492, contains provisions which provide $62 million for emergency military assistance for El Salvador and $21 million for the Central Intelligence Agency's covert assistance program in Central America. Those are relatively modest amounts Madam President. In fact, the administration's total assistance request for El Salvador in fiscal year 1985 represents only 3 percent of U.S. assistance worldwide.

The bipartisan Commission on Central America succinctly put the case when it stated that there is a crisis in Central America; that the crisis is real and acute and that the United States must act boldly to meet it. The Commission noted that powerful forces are on the march in nearly every country of the hemisphere and that who shall govern and under what forms are the central issues.

That, Madam President, is the question that should be considered by every Senator as we consider this amendment.

Three Central American nations are now in different stages of their attempts to cope with the political crisis that envelopes them: Nicaragua, El Salvador and Honduras. Each of them deserves a brief look.

In Nicaragua, we see a Sandinista Government that drove the dictator Somoza from power and promised a new democratic order. However, we see no new democratic institutions, period. Instead, we see a government that has used violence and repression to stifle all forms of legitimate dissent.

After Somoza was overthrown, the ruling Sandinista directorate had an opportunity to initiate programs and reforms that would have benefited all the Nicaraguan people. Instead, the self-described Marxist-Leninist leaders of the revolution chose to align themselves with the Soviet Union and have allowed their struggling nation to become the center for the export of violence and terrorism throughout Central America.

El Salvador is in the middle of a civil war. That nation, like the rest of Central America, is beset by a complex set of economic, political and social problems. Despite the efforts of 10,000 guerrillas backed by Cuba and the Soviet Union and supplied through Nicaragua, the people of El Salvador have consistently made plain their desire to continue the steps, however, halting and uncertain they may be, that have been made toward establishing genuine democratic and progressive reforms. The national election held just 2 weeks ago is the most recent example of this commitment.

Specifically in Honduras, Madam President, we find an elected government, friendly to the United States, which looks at Nicaragua and sees the largest military force in Central America poised at its common border; which looks at its neighbor, El Salvador, and sees the truth in the Sandinistas boast of a revolution without borders; and which looks to the, United States, Madam President, as one friend looks to another, for guidance and assistance.

Madam President, few problems around the world pose a more grave threat to the United States and its true vital interests. Continued U.S. involvement in this area of the world will not only provide valuable assistance to the forces that are resisting Soviet advances, it will also enable the United States to play a key role in bringing about critically needed progress toward social justice and economic growth.

But advances toward human rights and human freedoms, Madam President, will never be made under Marxism or under the rule of Marxist-Leninists. It would be folly to ignore these unpleasant facts, Madam President.

Under the rule of those regimes, Madam President, are boat people who are willing to risk unspeakable horrors on the open seas rather than live under Communist rule in Vietnam; are Jews in the Soviet Union who become part of the gulag for simple expressing a desire to live elsewhere; are Afghanistan's children who are gassed, maimed, killed by Soviet troops; are Nicaraguan Indians kept in detention camps.

For humanitarian reasons, if for no other, we cannot turn our backs on events in this region. But there are other, vital reasons for not doing so. Central America is not half a world away. It is close to home. Nothing that happens in that region of the world happens without having an impact on the United States. The Central American countries sit astride sea lanes through which half of all foreign trade with the United States must pass. And finally, Madam President, these nations form the southern border of Mexico, a nation with which we share an 1,800 mile frontier.

Madam President, leadership requires making difficult and sometimes unpopular decisions.

So I hope all my colleagues will face the facts, Madam President. If they do, they will see that the choice, while perhaps unpleasant, is nonetheless clear. We need to ask ourselves these questions:

One, will the free people of Honduras be made more or less secure by this amendment?

Two, will the private economic investors outside Honduras be encouraged or discouraged by passage of this amendment?

Three, will the Nicaraguan terrorist types and the expansionist leaders of Nicaragua, Cuba, and the Soviet Union be deterred or encouraged by the passage of this amendment?

Madam President, maintaining freedom for Central America and specifically Honduras is not easy for that region or country. So let us not congressionally micromanage those people out of their freedom or their chance to secure it. The language that was passed by the full Appropriations Committee should be supported, and this amendment defeated.

I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Alaska has 21 minutes.

Mr. SASSER. Who is controlling the time on the other side, Madam President?

The PRESIDING OFFICER. The Senator from Alaska. The Senator from Tennessee has 2 minutes and 30 seconds.

Mr. STEVENS. Madam President, I have not yielded to the Senator from North Carolina. I have yielded to the Senator from Tennessee.

Mr. SASSER. I yield part of my time to the Senator from North Carolina.

Mr. EAST. I inquire of the manager of the bill how much time he has yielded to me.

Mr. STEVENS. Ten minutes; that is, the Senator from Georgia has 10 minutes. If you wish more after that, we will be glad to accommodate.

Mr. EAST. I will take 10 minutes. I may request a few additional minutes, if I might.

I appreciate the opportunity to speak in this case briefly on this particular amendment. I will try to put this amendment, as I see it, along with the earlier Levin amendment in a little broader perspective. I look upon this, to use a very good phrase that Senator MATTINGLY used, as an effort to somewhat micromanage American foreign policy from the seat of the U.S. Senate. I do not think that is a sound conception of separation of power.

I sometimes wonder, as I hear us niggling, arguing, and debating over these amendments of recent days, whether there is, at least as I see it, a broader appreciation of what is occurring in the world.

In this case, in our own hemisphere.

Namely, we see the Soviet Union backing her proxy, Cuba, through Nicaragua in an attempt to control Central America. That is a fundamental fact.

It would appear, for example, the Levin amendment as well as the Sasser amendment are merely nipping at the heels of anything that is proposed to seriously try to restrict that continued intrusion of the Soviet Union into our hemisphere and into Central America.

I am reminded of the comment that Alexander Solzhenitsyn made which I think is very prophetic in this context. He said, "You do not have to worry about nuclear war. They are taking you with their bare hands," meaning the Soviet Union. And they are.

For example, in Southeast Asia, we lost that war, I think because of the intermeddling of Congress. Cam Ranh Bay, which used to be an American naval base, is now a Soviet base and now being used to expand in that area. Soviet troops are being used to expand influence in Cambodia. We know of the enormous bloodshed, the genocide, in Cambodia; we know of the boat people. We know where people can vote with their feet, they leave communism. Communism has to put up walls to keep people in. We, tragically, have to almost put up walls to keep them out. It seems time to me that a great power must at some point face the fact that we have to assist our allies and democratically-elected governments throughout the world in their efforts to withstand this kind of onslaught.

Right now we are experiencing this problem in Central America. People will say, "Oh, it is another Vietnam. How many Vietnams can you afford?"

I would say how many Vietnams can you afford to lose? Do you intend to abandon Central America? Nicaragua is already under Soviet domination. Let us be candid about that. Let us have no question about it.

El Salvador is now on the list, and President-potential Duarte has said, "If we do not get aid, we will fall under the Marxist-Leninist control of the Soviet Union and Cuba."

Then the pressure is going to mount on Honduras. There is no question about that. Come now, let us not be naive. Then Guatemala and Mexico.

I am simply saying what you are seeing here is the Soviet influence increasing in Central America to the point where I think the Caribbean will ultimately become primarily a dominant area of Soviet influence.

Do you think that is in the best interest and security and well-being of our own country? I do not. I think it is an alarming tragedy.

The Soviet Union always seems to have its national interests. It can support rebellions, insurrections, revolutions in Africa with Cuban troops. It can support the efforts to destroy Israel in the Middle East through Syria, and is trying to destroy Lebanon and succeeding. And succeeding.

It can take over in Southeast Asia.

But, curiously, we always seem to hear the United States has no national self-interest anywhere. That is pawned off as a very brilliant, visionary, progressive, forward-looking policy.

Well, it is not. It is the most reactionary policy we have had in the 20th century in this country. It is a new version. It is a new bottle with the old label. It is the old national disarmament of the 1920's and 1930's, which brought us the worst war we have known in our history. We thought by simply hunkering down, pulling in the fortress America, letting Hitler, Mussolini, and the Japanese Imperial Army have the run of the mill, we could escape the Holocaust. We did not. We did not.

I hope we do not repeat the follies of the 1980's that we repeated in the 1920's and the 1930's.

I find it curious that there is no end to which some, the opposition—and I deeply respect their integrity—can go to find fault with a democratically elected government of, say, El Salvador, but when it comes to a Communist dictatorship in Nicaragua, always quite defensive of it. It is curious to me, why that is.

Of the Democratic Government of Honduras, there is very much concern that they might be adequately able to protect themselves.

I think there is a double standard here. I will be more blunt about it. Are there no enemies to the left? Are there none? Cuba is not? The Soviet Union is not? Nicaragua is not? There are no enemies to the left?

I sometimes think that is a mentality, a mindset.

Intentions are honorable. I am not implying any disloyalty, lack of patriotism or betrayal. I am simply saying it is a mindset that I find incredibly naive in terms of the reality of power.

It reminds me back in the thirties in this same Chamber Senator Gerald Nye was arguing for Fortress America, isolationism, and he talked about the merchants of death being the American munitions industry.

So we tightened our world involvement.

Franklin Roosevelt had to do everything he could to overcome that. He had the destroyer deal. He knew, as Chief Executive, we had to face that threat. Finally, even Congress awakened on December 7, 1941, when we were attacked at Pearl Harbor. But I do not think we will have that luxury this time. It is too subtle. It is the case of the Soviet Union working skillfully and subtly in keeping with, incidentally, the Leninist-Marxist conception of overtaking the soft underdeveloped parts of the world and surrounding the industrial democracies of the world. That was Lenin's contribution to the doctrine, and Mao Tse-tung perfected it. He said control of political power flows out of the barrel of a gun.

I regret that we are faced with an arms reality of that kind, but is that not the reality? Can we ignore it? I do not think we can.

I think this is a very historic debate going on in the U.S. Senate.

My quarrel with many of these amendments, be it the Levin or Sasser amendment, is that they are nibbling and nitpicking at the heels of anything that would seem to offer serious resistance to the expansion of Soviet power, in this case in our own hemisphere.

Let us define the broader perspective of what is occurring.

It is a repudiation of the Monroe Doctrine, going back to 1823. That said we would not accept foreign intervention and military presence in the New World from the Old World, of which the Soviet Union, incidentially, is a part. We are now accepting it. We have Soviet presence in Cuba, in Nicaragua, and it continues to grow. The domino theory is alive and well. Come now, let us not be naive.

So de facto we have repudiated the Monroe Doctrine, and this whole policy is contrary to the bipartisan foreign policy this country has had for well over a century. We saw it in the firm executive leadership of Theodore Roosevelt, a Republican. We saw it in the firm executive leadership in Central America in the Democratic President Woodrow Wilson. We saw it in the Good Neighbor Policy of Franklin Roosevelt. We saw it in the Alliance for Progress of John Kennedy.

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

Mr. EAST. Madam President, I ask unanimous consent that I have an additional 5 minutes.

Mr. STEVENS. I only have 10 minutes left. I can give the Senator 2 minutes.

Mr. EAST. Well, I shall take 2 minutes and finish.

We see it in the efforts of a Democratic President, Lyndon Johnson, to act affirmatively in the Dominican Republic and President Reagan, a Republican, in the case of Grenada. In other words, we have tried to assert through our Chief Executive, backed by a knowledgeable, informed Congress the need to prevent this kind of thing occurring in our own hemisphere and hopefully indeed in the rest of the world. But that is what is occurring in Central America and only the most naive, in my judgment, can fail to see it.

Every one of these amendments, I think, cannot see the forest for the trees. It is niggling over details, but it does not seem to have any answer to the broader context of what the Soviet Union and her proxies are doing. It is the old policy of isolationism, self-inflicted weakness and, I fear, my dear colleagues, it is going to bring great tragedy not only to the people of Central America but also to the security and the well-being of our own people in our own democratic institutions.

America needs to wake up to what is occurring in the world. I urge my colleagues, and I am finished, to vote, I hope overwhelmingly, for the defeat of this amendment. I thank the Chair.

● Mr. GLENN. Madam President, I rise to firmly support the Sasser amendment to the urgent supplemental, House Joint Resolution 492, and I urge my colleagues on both sides of the aisle to do likewise.

The amendment serves to amplify the concerns of many of us that this Nation not become embroiled once again in an extended military action in a foreign place without a clear definition of goals and the concurrence of the Congress and the American people.

The administration has assured us that the military facilities the United States is constructing in Honduras are temporary, only, and that they will be available only for the conduct of military training exercises. Construction of such facilities properly and rightly falls within the purview of the Department of Defense and the military services, using operations and maintenance funds allotted to the military.

But we have increasing and disquieting evidence that the administration and the military are constructing facilities that can be used as permanent military operating bases for an increased U.S. military presence in Central America. Construction of such facilities must be specifically authorized by the Congress, and the Congress has not so authorized.

The Sasser amendment emphatically does not, as some critics have claimed, subvert the constitutional authority of the President as the chief enunciator of U.S. foreign policy nor does it improperly limit the President's function as Commander in Chief of our military forces. The amendment only insists that the President and the administration abide by constitutional and statutory requirements that are long standing and well understood.

We in the Congress cannot—we must not—be an accessory to an escalation of use of our military forces in Central America, or anywhere else, without a full and open debate on the issues involved. We cannot afford another disaster such as Lebanon.

To the degree that the U.S. military installations in Honduras are temporary, there is no limiting effect of the Sasser amendment. To the degree that some misguided actions have been initiated by the administration to establish permanent military facilities there without congressional approval, the Sasser amendment clearly calls the administration to account.

There are no convincing reasons not to pass the amendment, however there are compelling reasons to use this opportunity to express the concern of Congress and the American people that we not take precipitous action that unquestionably can have far reaching and potentially disastrous consequences.●

Mr. CHAFEE. Madam President, for the past few days the Senate has been debating the supplemental appropriation for Central America. I have voted to support the $62 million for El Salvador, the amount proposed by the Senator from Hawaii, and I have voted to continue our assistance to the program in Nicaragua. Today, as we near the completion of our discussion of this subject, I wish to spell out my reasoning on these issues.

Eleven days ago, the people of El Salvador voted in Presidential elections. Under very difficult conditions, hundreds of thousands of Salvadorans went to the polls to express their preferences. There will now be a runoff election in a few weeks, and El Salvador will then have a popularly elected President.

This is a remarkable achievement in the midst of a civil war. I was particularly impressed with the remarks of the distinguished Senator from Oklahoma (Mr. BOREN) in this Chamber last Wednesday, as he described the experience of actually observing the people of El Salvador participate in the election despite the problem with the mechanics of the process. His and other accounts of the election help us to place in the proper perspective assertions that the election is meaningless.

This election was not perfect, but it is not meaningless. Confusion, delays, mistakes which prevented some Salvadorans from voting—these were unfortunate, but not fatal, flaws in the process. I believe that the willingness of Salvadorans to persist in their efforts to vote, to display the kind of determination exhibited last Sunday, sends a message. The message is that the people long for democracy, they crave its benefits and the right to participate in determining their own political future, and they long for peace. They are tired equally of oppression and of the current war.

There are those who dismiss the election turnout as being of no significance because voting is compulsory. Failure to vote results in a modest fine. What the critics overlook is that thousands of voters came out despite personal endangerment; that any voter objecting to the process or the selection of candidates could deposit his ballot unmarked and that only about 10 percent of the voters chose to do so.

There is no other way to view the elections than to conclude that the people of El Salvador have a longing for peace and for democracy. On these counts alone, they deserve our support.

No Senator should be under the delusion that these elections, by themselves, can solve the problems of El Salvador. Indeed, I sometimes believe that too much hope is placed on the elections, as if the simple act of voting could make all Salvadoran problems disappear. We all know that that is not the case, but at the same time it should be recognized that an elected government, one which governs according to constitutional principles, will be the type of government which can gather the strength to address seriously the other problems of El Salvador. Efforts to establish democratic government are critical first steps, not the end of the reform process.

This brings us to the situation today. We have before us a proposal to provide additional military assistance to the Government of El Salvador. This request comes as no surprise. We all knew there would be a supplemental request this year, just as we know that more money will be required in 1985. There is no promise that this assistance will produce some sort of military victory, no assertion that this is the last penny we will have to spend in El Salvador. These problems will not be solved overnight, nor will the war be over by the end of the summer.

Some have argued, in light of this, that we should cut off aid, or that we should attach conditions which we know will not be met—which would have the same effect—or that we

should cut off all aid within a specified time period unless certain specific actions are taken.

I am in sympathy with the objectives of those who make such proposals. I, too, want to see progress in important areas:

I want a verdict in the case of the killers of the American churchwomen, a verdict which is long overdue.

I want the prosecution of those who killed the land reform workers.

I want the land reform program to continue.

Most especially, I want to see an end to the death squad activity and to the terror and violence perpetrated upon the people of El Salvador by right-wing extremists.

The question is, Do we want our entire policy toward El Salvador to, in essence, be held hostage to these specific achievements? I submit that we do not, that we must look at the broad picture in making our decisions about aid to El Salvador, and that we must press for progress on these important issues in ways which do not give extremists of either the left or the right a functional veto over our policy.

There is another aspect to this debate over funding levels and cutting off aid, and it is one which is not being faced by those who would suspend all aid to El Salvador unless certain conditions are met. It is essential that we all recognize that, in the absence of continued U.S. aid, the guerrilla forces could win a military victory in El Salvador, a victory which otherwise is beyond their reach.

In saying this, I am not arguing that a military victory is within the reach of the government forces, with or without this aid. I believe that anyone familiar with the situation in El Salvador is aware that the military proficiency of the Salvadoran Army is less than excellent, and that the defeat of the guerrillas is far from imminent. At the same time, it must be said that the Salvadoran Armed Forces have prevented guerrillas from achieving a military victory and with additional training we can expect their performance to improve.

The ultimate solution in El Salvador must be political, and it must be arrived at through the negotiation process. I have yet to hear those who have advocated a complete cutoff of U.S. military aid explain how this will contribute to that outcome. Instead, it appears to me, this would only lead to the fairly rapid disintegration of the Salvadoran Armed Forces.

It is one thing to complain about the waste in our aid programs or the inefficiencies of the Salvadoran Army. It is another to throw up our hands, walk away from this issue, and concede that the FMLN guerrillas will win.

Madam President, I have visited El Salvador and I have spoken with Salvadorans from all sides of the political spectrum, including the FDR-FMLN. What was striking to me in these discussions was that virtually everyone wanted the United States to continue to play a role in helping the Salvadorans to solve their problems. Even the FDR believe that the United States should persuade the Government of El Salvador to accept the FDR's approach to negotiations!

Clearly, the United States should not determine the future of El Salvador, nor can we solve the problems which, ultimately, the people of that country must themselves solve. The U.S. role is to assist, to provide help, not to dictate the terms of El Salvador's political future. We have interests in the course of events in the region, but not in every detail of the internal arrangements of El Salvador, or any given country.

Our task here in the Senate is to do our best to make the U.S. role a constructive and positive one, not a role in which our power combines with that of the powerful and privileged within the society to block positive change and thwart the aspirations of the people. We must provide the resources to enable our diplomacy to work. We can make it clear that we support the negotiation process, both within El Salvador and in the region as a whole. This role, I believe, can best be accomplished if our presence is constant, if our commitment is for the long term, and if we keep a clear sense of our own purpose.

Madam President, what do I conclude based on the foregoing?

First, I believe that U.S. aid to El Salvador must be continued. We cannot turn the spigot on, turn it off, hold everything in suspense, and revisit the issue every 3 months.

Second, we need to insure that our aid and our presence and our influence in El Salvador are beneficial to the growth of the democratic process. An important element of this approach will entail making it clear that while we are not going to stop and start the program, neither are we writing a blank check. There must be a clear message from the United States to all the forces in El Salvador: we do not support terrorism, we cannot condone murder, we demand that those who seek our support devote their full energies to ending these reprehensible practices.

Third, our aid should be conditioned on an end to human rights abuses. The Kissinger Commission recommended such conditionality, and the Senate Foreign Relations Committee is currently considering this approach in the authorization bill now before the committee. I support these efforts.

Fourth, I believe that U.S. policy should encourage the Government of El Salvador to engage in discussions with the opposition and to gain their participation in the round of elections to be held next year. This also was a recommendation of the Kissinger Commission, and I believe it is extremely important.

If we seek a political, rather than a military, solution in El Salvador, as I believe we should, then we must make it feasible and desirable for the rebels, as well as others currently outside the system, to participate. Guarantees of safety and fair treatment must be worked out. Without this further broadening of the system, the desires which the Salvadoran people have demonstrated in the Presidential election will be frustrated, and U.S. aid will be wasted.

I am not sure this will happen. There are those on both the left and the right who are committed to a military solution rather than to the admittedly painful process of democratic participation. I believe, however, that the Salvadoran people deserve the chance to decide for themselves, through democratic processes, what their political future will be.

Madam President, this is the crux of our dilemma today. Those of us who support conditionality and a firm commitment to improving the human rights situation in El Salvador but who, at the same time, do not wish to see a government installed as a result of military victory by the FMLN, must choose the appropriate amounts of aid and the appropriate types of conditions to achieve those objectives. I believe that the amounts now contained in the bill, as a result of the amendment of the Senator from Hawaii, are about right. I further believe that the proper time to review our conditions and to consider attaching new conditions will be when we have before us the authorization and appropriations bills for 1985. This supplemental amount is no blank check, and that should be clear to those in El Salvador who might harbor the delusion that the United States is not serious about progress in the areas I mentioned.

Finally, let me briefly address the issue of Nicaragua and aid to the Contras. As was pointed out in our debate on this subject yesterday, and as was reaffirmed in the President's letter of April 4, the goal of U.S. policy with regard to the Contras is not to overthrow the Government of Nicaragua. The amounts we are providing are designed to reduce the military capability of the guerrillas in El Salvador. These amounts are modest, and that program is an effective tool in support of our overall objectives in the region.

For these reasons, I am supporting this supplemental appropriation, and I oppose attaching new conditions at this time.

Mr. GRASSLEY. Madam President, the amendment by the Senator from Tennessee attempts to focus the Sen-

ate's attention on the necessary role of Congress in authorizing and appropriating funds for construction of permanent military facilities. The Senator's concern is genuine and based in a cloudy picture of the Honduran situation. I support the motion to table because that concern is adequately resolved in the language of section 103 of House Joint Resolution 492.

Section 103 reduces the possibility of expenditures of funds for permanent military facilities by specifying that only temporary facilities are now intended to be constructed and, further, that the appropriation and authorization processes will be followed in the event that more permanent construction is contemplated in that nation of Honduras.

Mr. STEVENS. Madam President, I yield to the Senator from Arizona 3 minutes.

Mr. GOLDWATER. Madam President, one of the most repetitious things we are living through during this long, extended, and rather ridiculous debate is relative to the relation of the War Powers Act to the Constitution. I have stood on this floor time after time over many, many years declaring that the War Powers Act is unconstitutional and some day it will be so judged. In the very opening statements of the distinguished Senator from Tennessee, he said the Army engineers had not come to the Congress to ask permission to build these runways. I do not know where in the Constitution they are required to come here. Now we have the power in this Congress to limit spending after it has started, but there is no reason for any branch of the military under the direction of the President—who is our Commander in Chief and the only Commander in Chief—no constitutional reason for any branch to come to this body and say, may I build a runway in Central America or the Sahara Desert or near Israel or in the Middle East?

We have built dozens of runways and nobody has ever come to this body. They do not have to.

Madam President, I am very worried about hearing time after time distinguished Members of this body referring to the War Powers Act as if it were constitutional, as if we had to live by this document that has negated the powers of our President. One of the great strengths we have had, one of the reasons we have not been in repetitious wars time after time, has been the fact that our President has had the power to threaten any country that is abusing our freedom or our people. But now, what are we looking at? We have lost the last two wars we fought, the only time in American history we have lost wars. Why? Because a civilian got his nose in it. Here we are getting I do not know how many noses in this one, but enough to destroy Central America, enough to cause us to lose another effort that we are making on the part of peace, on the part of expanding freedom in this world.

We are looked upon as paper tigers and if these people who are offering these amendments after amendments are successful, we are going to become a power that had been. The United States will no longer have power, will no longer be respected in this world.

That is not the way this country was built, Madam President. We are a strong people, we have courage. We believe in God; we believe in freedom. And it makes me a little sick and tired to listen to these repetitious amendments that would destroy the power that has made America. I think this amendment is just another example of misguided information or maybe a purposeful intent. I do not believe that.

Madam President, to get further into this War Powers Act, I have written this very short statement relative to why I believe the War Powers Act is unconstitutional and why it does not apply in this instance.

Madam President, I have explained many times before why I believe legislative restrictions on the President's ability to defend this Nation's vital interests are both unconstitutional and dangerous.

Today, I suggest an alternative approach to the kind of amendments that have occupied the full time of the Senate for these past several days. My suggestion is that Congress should adopt a legislative resolution that states it is the constitutional role of Congress to help shape the broad outlines of foreign policy, but it is the role of the President to direct and manage the day-to-day operations of foreign affairs and to make tactical military decisions regarding the deployment and use of the Armed Forces.

Congressional meddling with efforts by the President to defend the national security has invariably resulted in worse consequences than the problem Congress was trying to avoid, and the indecision and weakness of Congress in time of crisis has been exposed time after time to the regret of the Nation.

For example, I can think of no clearer demonstration of irresponsible behavior by Congress than its failure to act in the final days of the Vietnam war, when President Ford had requested supplemental appropriations for military aid to Saigon in fulfillment of the commitments our Government had publicly and repeatedly given in negotiating the withdrawal of U.S. forces from Vietnam. These pledges had been announced at press interviews and congressional testimony by administration officials who clearly stated the Government's intention to enforce the Vietnam peace agreement. Instead of acting on the President's request, Congress spent 3 months debating it and then set it aside for a long Easter recess.

While Congress was procrastinating, South Vietnamese defense lines collapsed. When Congress did finally return from its recess, it defeated all proposals for emergency military assistance to Saigon. Instead it began to take up the request by President Ford for legislative authority to evacuate Americans and some of the people who had joined with us in resisting communist aggression. Congress never approved his request.

In the absence of congressional support, President Ford knew he would be accountable if he failed to give a strict adherence to a 1973 law prohibiting U.S. activities in, over, or from off the shores of Indochina. He also knew he had taken an oath to uphold the lives and interests of his countrymen and women. Caught between these choices, President Ford took into his own hands the protection of Americans regardless of the congressional restriction of 1973.

Weeks later, while Congress was still debating the issue, President Ford announced that the Indochina evacuation was completed. He had done the job himself. Now he turned to Congress pleading for funds to pay for purely humanitarian assistance and transportation of refugees. The House of Representatives rejected this humanitarian appeal, too, and did it the very next day after the President made it.

Madam President, this sorry event typifies what happens when Congress attempts to control the day-to-day operations of foreign policy. The various Indochina prohibitions Congress had enacted and its refusal to support a bipartisan foreign policy in time of grave crisis caused serious harm to the national interest. By using the legislative process to prohibit the President from taking defense measures, Congress in effect told Hanoi that South Vietnam could be plucked with impunity.

I also believe Congress should share part of the blame for what has happened in Cambodia. The restrictions Congress enacted at the time save the Khmer Rouge from defeat, prevented the success of our Nation's effort to defend against aggression by building up local forces, and doomed all possibility of attaining a neutral, free Cambodia.

Henry Kissinger has described the legacy of the various Indochina legislative restrictions as follows: He writes:

> The collapse in 1975 not only led to genocidal horrors in Indochina, from Angola to Ethiopia to Iran to Afghanistan, it ushered in a period of American humiliation, an unprecedented Soviet geopolitical offensive all over the globe, and pervasive insecurity, instability, and crisis.

We can go back to an earlier time in our history to see that legislative shackles on the President's defense powers are unwise and unworkable. I am referring to the early 1940's and to the vision President Franklin Roosevelt had to see that the democracies of the world will avoid disaster only by maintaining their defenses and having the will to confront obvious threats to their survival. He ignored the Neutrality Acts of 1936 and 1937 and took bold action independently of Congress to resist the Nazi onslaught on the civilized world, even though public opinion of the time was convinced that Britain and Western Europe were doomed and that American aid would be lost in the Atlantic or fall into Hitler's hands.

If the War Powers Resolution or some of the tightly binding statutory restrictions that have been offered this week had been in effect in the early 1940's, President Roosevelt could not have kept troops in Greenland, he could not have reinforced the Marines on Iceland, he could not have escorted British shipping in the Atlantic, and he could not have done any of the numerous other things which helped to prevent a collapse of resistance to Hitler. The Wars Powers Resolution would have brought about a total disaster in the 1940's, and it may well bring about a catastrophe of equal dimensions in the future if it is not repealed and if we do not stop trying to chain the President's defense capabilities.

The question we must face is whether the United States, as the strongest free nation in the world, has a stake in preventing totalitarian expansion and conquest. The danger in legislative restrictions on the President is that they keep the United States from being a world power and they take away all flexibility to deal with unforeseen events.

Legislative restrictions tie our Nation's hands and tell our adversaries we will not act to meet challenges to our safety until the danger is at our doorstep, when it is too late, when the danger is no longer manageable. Amendments of the kind that we have seen this week are a dangerous impediment to the national defense and should be rejected on the basis of commonsense as well as constitutional grounds.

Madam President, I thank my friend from Alaska for yielding.

Mr. SASSER. Madam President, I yield myself 5 minutes on the bill.

I am always amused and sometimes informed by the arguments made by my distinguished friend from Alaska. Today, I was reminded, as I listened to him argue his case with his usual eloquence, of an admonition an old law school professor gave me years ago. He said, "Young man, if the facts are against you, argue the law; if the law is against you, argue the facts. But if they are both against you, speak loudly and with authority." Today, my distinguished friend from Alaska spoke loudly and with authority.

I listened as he described this great democracy, the country of Honduras.

I might say this is not an amendment with geopolitical ramifications. We are talking here simply about guaranteeing to the Congress that which is its prerogative, authorizing and appropriating funds for permanent U.S. military installations; but it has taken on, it appears, ramifications larger than that. I listened with disbelief, quite frankly, as I heard this great democracy in Honduras described and heard the description of the transfer of power—that is what it was—which took place when one general, General Alvarez, was deposed by another one. This was some shining example of how democracy functions in that country. I was reminded of a dispatch I read this morning in the New York Times describing what, indeed, did happen in Honduras as one general displaced another one.

According to that article, the vote was held in the congressional building on replacing General Alvarez with another air force general. The congressional building "was surrounded by troops and armored personnel carriers fitted with machine guns. The legislators broke into laughter when one plane passed low overhead just as a member cast his vote in favor of the air force commander"—meaning the new commander in chief.

What did the civilian authorities in that country have to do with this actual transfer of power? Nothing. They learned about it from the military. The President of Honduras, duly elected and duly constituted, had nothing to do with the chief of staff being relieved of his command and nothing to do with the general who controlled the military. He had nothing to do with General Alvarez being dispatched in handcuffs to Costa Rica without his breakfast on Saturday morning. The President of Honduras learned about it after the fact. He is ill with a heart condition and he cooperates with the military in Honduras, which has run that country and ruled it for as long as I can remember. So much for the great democracy in the country of Honduras.

Mr. President, I looked at the map that my distinguished colleague brought in here today to justify his argument. I was struck that it was incomplete. I was curious as to why Puerto Lempira was not on that map, why Jamastran under construction now 15 miles from the Nicaraguan border is not on that map, why Cucuyagua a few miles from the border of El Salvador is not on that map, and I noticed there were four photographs——

The PRESIDING OFFICER. If the Senator from Tennessee will yield, his 5 minutes is up.

Mr. SASSER. I yield myself an additional 5 minutes, Madam President. There were four photographs of areas that this Senator did not recognize, and I have toured all military installations in Honduras—at the least I was informed of that by U.S. military authorities with the exception of one. I was curious, if they had a photographer there, why were there just four photos and why were there no photos of the hardtopped airstrip at Trujillo, why were there photographs of tents but no photographs of the Central American tropical huts that were built and constructed of wood, why no photographs of the interior of the fairly well-stocked American PX at San Lorenzo that I was at.

I heard with interest my able friend from Georgia and chairman of the Military Construction Subcommittee cite the editorial from the Wall Street Journal, a distinguished publication, in support of his position, but I was struck that he failed to cite the editorial, from the Atlanta Constitution and the Atlanta Journal, two equally distinguished newspapers from his own State that support the position of the Senator from Tennessee.

If we follow the logic of my distinguished friend from Arizona, for whom I have only the highest respect and highest regard, let us just eliminate the Congress, let us eliminate the Appropriations Committee that deals with military construction, eliminate the Armed Services Committee that deals with military construction, and let us let the President and the administration have it all. Let them build what they wish wherever they wish and send us the bill, and we will sign the check. That is all there is to it.

All this amendment is about, Madam President, is simply to say that the military facilities being constructed in Honduras, which it is alleged are temporary, to be used for exercises and maneuvers only, will be used for maneuvers and exercises only. That is all it says. It says that if these temporary facilities are to be upgraded to permanent facilities, then the administration and the Pentagon shall come to the Congress, as provided by statute, and ask for appropriate authorization after submitting justification and asking for the appropriation of funds—a very simple statement.

I might say that I do not draw a parallel between Honduras and Vietnam, but there is a parallel between Honduras and Thailand and what took place in Thailand now over 20 years ago when American military infrastructure was built without the knowledge of the American people and with little or no participation by the Congress of the United States. I simply want the

policy out in the open. Let the sunshine in. Let the American people know what direction this administration seeks to take us in Honduras and in Central America.

And finally, Honduras is a poor country, smaller than my native Tennessee, per capita income of less than $660. A substantial portion of the children die before they are 5 years of age because of gastrointestinal disease, and you wonder what are the real causes of problems in that country and that region of the world. Is it indeed Marxist-Leninism, as my distinguished friend from North Carolina would say, or is it the fertile ground provided by the sad quality of life of these people on which the seeds of revolution fall and find nurture?

It is clear, Madam President, when you travel to Honduras the U.S. military is the only growth industry in that country. It is being financed by the taxpayers of the United States, and they ought to know when and they ought to know why and they ought to know where.

So the purpose of this amendment is to ensure that that growth only occur if the Congress of the United States approves it.

The PRESIDING OFFICER (Mr. ARMSTRONG). Who yields time?

Mr. STEVENS. Mr. President, my wife just told me I should not let these people get me so exicited that I look like a long-tailed cat in a room full of rocking chairs.

Now, I do get a little excited about some of these things. The Senator from Minnesota wanted to be sure he heard what I am going to say because I want to show this to my friend to make certain he understands that I am holding in my hand a picture of a sea hut. The difference between a sea hut and a cat hut is the sea hut is built by the Seabees and the cat hut is built by the Corps of Engineers. The Senator from Minnesota is interested in the fact that the Seabees are using plywood on the side of the sea huts whereas the Corps of Engineers are using local lumber from Honduras, but they are both temporary facilities and those are in fact the "permanent facilities" that the Senator from Tennessee is talking about.

Again, I put these photographs on both desks. I invite Members of the Senate to take a look at them and decide whether they really are going to state that we cannot use O&M funds to build sea huts or cat huts when they cost less than tents and they serve our troops better. When the exercise is over, they are often dismantled by the local people, sold by AID, and are now being used to upgrade the local housing under an AID program. I do not know of any better way to use money that comes under the military budget for these exercises than I saw in Honduras.

Mr. President, in just a moment I am going to yield back the remainder of our time, which is not much, I know, because I am going to offer an amendment to the Senator's amendment. It is really a substitute. I see no reason why he should delete from this amendment that is in the bill the language he himself brought to the Appropriations Committee which authorizes the President of the United States to make an unforeseen emergency determination that there is construction or modification or improvements necessary to these facilities in the interest of national security.

I also want to delete the word "upgrade" from his amendment. And I really believe we should make it clear that the limitation applies only to the U.S. military forces. That is what we are talking about in terms of this amendment. Under the Senator's amendment, we could not use moneys in any of these facilities to upgrade the facilities. We could not use money to improve the runways so that he could go down there and make another inspection trip, which incidentally they did before his trip and mine. To make certain that the runways were capable of C-130 use, there was upgrading on both of the runways, photographs of which I have shown the Senate. I think it ought to be clear that we are talking about the temporary use of these facilities for U.S. military purposes.

We agreed in the committee to an amendment—I thought we had settled this matter—with the help of the distinguished Senator from Louisiana. I want to restore the language that the Senator from Louisiana put in the amendment of the Senator from Tennessee in committee. We want to make it very plain what we are doing, in other words.

I do not think it is possible for us to continue the operations we have conducted there, under the amendment of the Senator, as originally prepared.

I yield back the remainder of my time, and as soon as the Senator from Tennessee has used his time, I will offer my substitute.

The PRESIDING OFFICER. The time of the Senator from Alaska has been yielded back. Who yields time?

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

The PRESIDING OFFICER. All time having been yielded back, the question is——

AMENDMENT NO. 2891

(Purpose: Substitute for Sasser amendment No. 2890)

Mr. STEVENS. Mr. President, I send to the desk an amendment to the amendment of the Senator from Tennessee.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS) on behalf of himself and Mr. MATTINGLY, proposes an amendment numbered 2891 to amendment numbered 2890:

In lieu of the language proposed, insert the following: or unless the President determines and provides prior notification to the Committees on Appropriations, Armed Services, and Foreign Relations that an unforeseen emergency exists which requires such construction, modification, or improvement: *Provided*, That temporary facilities previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense, shall be available to U.S. Military forces solely for the conduct of military training exercises unless such facilities are deemed necessary for the evacuation or self-defense of U.S. personnel: *Provided further*, except as specifically authorized and appropriated by Congress no funds appropriated to the Department of Defense may be obligated or expended to convert to permanent use for any military or paramilitary organization any temporary facility previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense.

Mr. STEVENS. Mr. President, this is a long way to do it, but I am informed that it is the proper way.

I want to put back in the bill the language that the amendment of the Senator from Tennessee would delete, which he, himself, brought to the committee. I think it is proper. It gives the President emergency authority.

Second, it takes the amendment he has brought to the floor and deletes the prohibition reference to upgrading these facilities, and it makes the limitation apply to the U.S. military force use of these facilities for military exercises only. That is what we have said all along.

Mr. SASSER. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

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

Mr. STEVENS. Against whose time?

Mr. SASSER. On the bill, evenly divided.

Mr. STEVENS. As I understand it, the Senator wishes to charge the time against the bill on his side.

Mr. SASSER. Evenly divided.

Mr. STEVENS. I will be glad to charge it against the time on my amendment. I want to get along with this. I want to get on with the vote.

The PRESIDING OFFICER. Is it the request of the Senator that the time be charged on his amendment?

Mr. STEVENS. The time on my amendment, yes.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, if the Senator from Tennessee is prepared to accept my amendment, I am prepared to accept his amendment as amended and get the Senate on to other business.

Mr. SASSER. Mr. President, I am not prepared at the present time to accept the amendment of the Senator from Alaska.

Mr. STEVENS. Very well.

I suggest the absence of a quorum on the same basis then.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, we have now reached the point where I have 5 minutes remaining. I am no longer willing to charge the time for the quorum call of the Senator from Tennessee to my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. On whose time does the Senator suggest it be charged?

Mr. SASSER. On my time.

The PRESIDING OFFICER. The Chair regrets to inform the Senator from Tennessee that, under the precedents, the Senator must have at least 10 minutes remaining and at this point the Senator has less than 5.

Mr. SASSER. I yield myself time on the bill, Mr. President.

The PRESIDING OFFICER. For the purposes of the quorum call?

Mr. SASSER. For the purposes of the quorum call.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. SASSER. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Alaska is likewise prepared to yield back the remainder of his time.

Mr. STEVENS. To do what? Vote?

The PRESIDING OFFICER. If all time is yielded back, the question then recurs on the Stevens amendment.

Mr. SASSER. Mr. President, has the Senator from Alaska yielded back his time?

Mr. STEVENS. I am happy to yield back my time and ask for a vote.

The PRESIDING OFFICER. Does the Senator from Tennessee also yield back his time?

Mr. SASSER. Mr. President, I would be happy to yield back the balance of my time at the expiration of the time of the Senator from Alaska or at which time he yields back the balance of his time.

The PRESIDING OFFICER. The Senator from Alaska has yielded back his time.

AMENDMENT NO. 2892

Mr. SASSER. Mr. President, I yield back the balance of my time and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. SASSER) for himself, Mr. INOUYE, Mr. BINGAMAN, Mr. PELL, Mr. WEICKER, Mr. EAGLETON, Mr. LEAHY, Mr. GLENN, Mr. ZORINSKY, Mr. BUMPERS, Mr. EXON, Mr. RIEGLE, Mr. CRANSTON, Mr. FORD, Mr. PROXMIRE, Mr. TSONGAS, Mr. BAUCUS, Mr. RANDOLPH, Mr. BIDEN, Mr. MELCHER, Mr. PRYOR, Mr. METZENBAUM, Mr. KENNEDY, and Mr. BOREN, proposes an amendment numbered 2892 to amendment numbered 2890.

After the comma at the end of line 5, add the following:

Mr. SASSER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will report the amendment.

The assistant legislative clerk resumed reading as follows:

After the comma at the end of line 5 add the following: in whole or in part utilizing operations and maintenance funds of the Department of Defense, shall be available to U.S. military forces solely for the conduct of military training exercises unless such facilities are deemed necessary for the evacuation or self-defense of U.S. personnel: *Provided further,* except as specifically authorized and appropriated by Congress no funds appropriated to the Department of Defense may be obligated or expended to upgrade to or convert to permanent use for any military or paramilitary organization any temporary facility previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, my perfecting amendment simply accepts two modifications that have been suggested by the Senator from Alaska. However, this perfecting amendment that I am proposing now deletes those provisions suggested by the Senator from Alaska which give the President more authority to approve permanent military construction by a simple declaration of an emergency.

The language which I originally offered in committee did not include temporary facilities. When the word "temporary" was added by the Johnston amendment, it inadvertently, Mr. President, gave the President new authority to approve permanent military construction in Honduras without going through the regular congressional process of authorization and appropriation. That was certainly not my intent when I offered the amendment in committee.

However, when the Johnston language adding "temporary" was adopted, it expanded and gave to the President new authority, and also diminished the authority and jurisdiction of the Congress over the construction of permanent military facilities.

I do not believe, quite frankly, that my distinguished friend from Alaska, who has fought to preserve the congressional integrity and jurisdiction in other matters in times past, desires to give the President this new authority. The Senator from Alaska is chairman of the Defense Subcommittee. I do not believe the distinguished Senator, or any member of his committee, wishes to add significant new authority for the President of the United States which would seriously diminish the authority and jurisdiction of the Defense Subcommittee.

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

Mr. STEVENS. Mr. President, if the Senator is finished, I am prepared to respond.

Mr. SASSER. Mr. President, I rescind the request for a quorum.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is getting awfully confusing for something that was not that confusing to begin with. The Senator is now trying to amend his amendment to delete the language he himself offered to the Senate in the first place. This is the language I mentioned before, which gives the President the emergency authority for unseen conditions.

I find it very strange that I end up in an argument in order to protect the role of operation and maintenance funds, and to make it consistent that I have to disagree with the Senator from Tennessee, first on his own language that the Senate Appropriations Committee adopted at his request; and second, to defend the language that the Senator from Louisiana offered. But I must do so.

The only impact of the Senator's amendment that I see is that that would partially tend toward the position that I have expressed; that is, that he has changed it so that the funds may not be obligated or expanded to upgrade or convert to permanent use.

So that is a limitation that changes what we have done in the other subcommittees which I think is preferable, livable and consistent with what the Senator from Louisiana did in committee. It is consistent with what the Senator from Tennessee did in committee, and it is consistent with the concepts that are expressed in the substitute that I have.

When the time has expired, I will move to table the Senator's amendment—this amendment to his own amendment.

Mr. SASSER. Mr. President, I have made two substantial modifications to this amendment at the request of my distinguished friend from Alaska. One is to insert the language that he requested, for reasons that cannot be discussed on this floor because of their sensitive and classified nature. But we did insert after the words on line 7 "shall be available" these words: "to U.S. military forces." This was at the request of the Senator from Alaska and in an effort to accommodate him and make the legislation more appealing.

My modification also attempts to answer the concern expressed by the Senator from Alaska with regard to providing maintenance of these facilities.

Mr. President, I think we have gone the last mile in trying to accommodate the wishes of the Senator from Alaska. My distinguished friend from Alaska seeks to add language to my original amendment which would greatly expand the scope of that amendment, and which would delegate to the President and the executive branch more authority than it actually presently has to construct permanent military facilities around the world without going through the authorization and appropriation committees in the Congress.

Mr. President, I hope this body will reject that effort to diminish the authority and jurisdiction of the appropriation and authorization committees of this Congress, and to enhance the ability of the Department of Defense to frustrate congressional intent.

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

Mr. STEVENS. Mr. President, I have to confess that the Senator from Tennessee has me so confused that I do not know what is wrong with the bill as it stands. The bill as it stands takes the Johnston amendment from the Appropriations Committee and preserves the existing law, preserves the right to do what we have been doing so long as there are temporary facilities only.

It specifically prohibits the expenditure of O&M funds for other than temporary facilities. The more I think about that, the more I think the wisdom of the Senator from Louisiana's point is well taken.

I yield back the balance of my time.

I move to table the basic amendment of the Senator from Tennessee. Let us escape three votes. We would have three votes. Let us just have one. Let us just table the new Sasser amendment which he has brought to the floor now and preserve the Johnston amendment as it came out of committee.

Therefore, I move to table the underlying amendment which would carry my substitute and his new amendment with it.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the underlying amendment of the Senator from Tennessee. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LONG (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Colorado (Mr. HART). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Washington (Mr. EVANS) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. EVANS) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) is necessarily absent.

I further announce that the Senator from North Dakota (Mr. BURDICK) and the Senator from Arizona (Mr. DECONCINI) are absent on official business.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—50

Abdnor	Gorton	Nickles
Andrews	Grassley	Packwood
Armstrong	Hatch	Percy
Baker	Hawkins	Quayle
Boschwitz	Hecht	Roth
Chafee	Heflin	Rudman
Cochran	Heinz	Simpson
Cohen	Helms	Specter
D'Amato	Humphrey	Stevens
Danforth	Jepsen	Symms
Denton	Kassebaum	Thurmond
Dole	Kasten	Tower
Domenici	Laxalt	Trible
Durenberger	Lugar	Wallop
East	Mattingly	Warner
Garn	McClure	Wilson
Goldwater	Murkowski	

NAYS—44

Baucus	Glenn	Moynihan
Bentsen	Hatfield	Nunn
Biden	Hollings	Pell
Bingaman	Huddleston	Pressler
Boren	Inouye	Proxmire
Bradley	Johnston	Pryor
Bumpers	Kennedy	Randolph
Byrd	Lautenberg	Riegle
Chiles	Leahy	Sarbanes
Cranston	Levin	Sasser
Dixon	Mathias	Stennis
Dodd	Matsunaga	Tsongas
Eagleton	Melcher	Weicker
Exon	Metzenbaum	Zorinsky
Ford	Mitchell	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for.

NOT VOTING—5

Burdick	Evans	Stafford
DeConcini	Hart	

So the motion to lay on the table amendment No. 2890 was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I would like to inform the Senate where we are and about what we have left to do on this supplemental.

It appears that we may have completed the amendments—I am not certain, but I think we may have completed the amendments relating to Central America: Nicaragua, Honduras, and El Salvador. We have been about 2½ weeks now on this bill. We have had a rather extensive hearing and debate on these various issues.

Mr. STENNIS. Mr. President, may we get the House in order so we can hear. This is an important announcement, I believe.

The PRESIDING OFFICER. All Senators will please refrain from conversation.

Mr. HATFIELD. If my perception is correct and we do not have any further amendments on the Central America subject, then we have knowledge of 8 to 10 other amendments, excluding the possible Chiles amendment relating to the budget process.

If that is the situation, then we are in a position, I think, to complete those 8 to 10 amendments in a relatively brief period of time because I do not know of very many rollcalls, if any, at this time that will be required.

If that is so, then we could conceivably finish this bill within a period before the dinner hour. I do not know what the leadership may wish to do at that point, but at least as far as the supplemental is concerned, I think there is great likelihood with these contingencies that we can put this matter to bed at a very decent hour. I

am hopeful we can do that. There is a request from the leadership now for a brief session on another subject for which I would like to absent myself from the floor to participate. Protecting the right of the Senator from Florida, if he wishes, to be the next in line on the budget resolution amendment, I would put a call in for a quorum at least for 10 minutes while this leadership session proceeds. At that point, I will return to the floor and begin processing these other amendments that appear to not be controversial, and in all probability will be accepted by the committee.

That is a very tenuous schedule that I have outlined, and with the cooperation of my colleagues, I think we can accomplish the tasks before us in this rather decent period of time. If there are any questions on this matter, I will be very happy to respond.

Mr. KASTEN. Will the Senator yield just briefly?

Mr. HATFIELD. I am happy to yield.

Mr. KASTEN. Mr. President, last night the Senator from Delaware (Mr. BIDEN) had an amendment. He said he did not intend to offer that amendment. I had another conversation with him a moment ago, and in fact the Senator from Delaware does not wish to offer the amendment with the time limit that had been agreed to, so I agree with the Senator from Oregon that the basic list on Central American amendments is now behind us, and I am hopeful that we can move forward.

Mr. HATFIELD. Mr. President, if there are no other questions on this outline, then I will suggest the absence of a quorum, to be followed in about 10 to 15 minutes by the processing of the remaining amendments leading to final passage.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2893

(Purpose: To require the Secretary of Education to pay the required entitlements under section 3 of Public Law 874 in accordance with the appropriation made under Public Law 98-139)

Mr. MELCHER. Mr. President, on behalf of myself, Senator ABDNOR, Senator PELL, Senator BAUCUS, Senator BENTSEN, Senator D'AMATO, Senator MOYNIHAN, Senator PRESSLER, Senator TRIBLE, Senator WARNER, and Senator DIXON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 2893.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 6, after line 21, add the following:

SEC. 105. The Secretary of Education shall distribute all the funds appropriated in title III of Public Law 98-139, under the heading School Assistance in Federally Affected Areas, for entitlements under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to local educational agencies in accordance with the provisions of such Act of September 30, 1950, and the regulations in effect on the date of enactment of Public Law 98-139. Such funds shall be paid to the local educational agencies within 15 days of the date of enactment of this Act.

Mr. MELCHER. Mr. President, the amendment would require the Secretary of Education distribute money we appropriated last fall to the school districts which are entitled to payments under Public Law 81-874, the impact school aid program.

I stress that this amendment does not add 1 cent to this supplemental appropriation bill. It merely directs the Department to follow the law we enacted on October 31, 1984, and distribute already appropriated funds for the school year 1983-84.

The situation is this: State education agencies in some 17 States have been notified that, because the Department has published proposed changes in their regulations on school impact aid the funds that impacted school districts in their States budgeted for the school year beginning September 1983, will be considerably reduced.

The school districts in these States prepared their budgets on the basis of the provisions in Public Law 98-139 and the regulations in effect at that time. Some in at least 17 States elected the option of basing their entitlements on the average of five comparably sized nonimpacted districts in their respective States as the regulations and application form authorized by the Department of Education provide. The county commissioners and State departments of education approved these budgets for the school year which began in September 1983.

Now, however, the Department of Education has notified the 17 States that because the Department proposes to change the regulations, these school districts may receive one-half of the State average per pupil expenditure for this school year—which began last September and ends in June.

Let me give you a few examples:

Browning, Mont., public schools application, based on regulations in effect at the time the application was approved, should receive $5,275,477 based on the five comparable districts regulations. Now they are told they may receive, based on the State average, $2,586,453, or $2,688,994 less than they budgeted for. This school district serves 1,755 Indian reservation children.

Lodge Grass school's approved budget is for $1,771,396. The Department may be reducing this to $778,809, or $992,587 less than required to meet current expenses. There are 494 Indian children in attendance. Box Elder school's approved budget is for $999,400. The Department may be reducing this to $363,645 for a deficit of $635,766. There are 257 pupils in the Box Elder schools.

In Montana altogether there are 25 school systems entitled to $23,744,000 in Public Law 81-874 for this school year who may instead receive $11,171,000, for a potential loss of $12,753,000, this school year. These districts have teachers under contract, heating and electric bills to pay, school transportation commitments that must be met now. They have become inured to delays in Public Law 81-874 funds. But there is no way on earth they can sustain the losses the Department apparently intends to inflict on these children.

This action by the Department is in direct defiance of the report language in Senate Report 98-247 which accompanied H.R. 3913, now Public Law 98-139. It is apparent that we must spell out in the law that the money appropriated for impact aid shall be paid to the school districts who are entitled to it. Some, indeed, may close up shop without it.

Again, I stress this amendment adds not 1 cent to this bill, and not 1 cent to the budget deficit. It tells the Department of Education to do what we thought we told them to do last fall.

Mr. President, this is an impossible situation for a great number of school districts in these 17 school States. The amendment merely straightens the problem out by saying they have already budgeted in those school districts in those States according to what they were told at that time, and to distribute the funds as you are supposed to under the requirements, under the appropriation. This will alleviate the confusion and downright disadvantage the school districts would have if their funds were cut at this late time.

I hope this amendment can be accepted. It only makes commonsense that we do.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I am in sympathy with the objective of this amendment, but I have a few questions.

What has caused the problem?

Mr. MELCHER. The problem was caused by the Department of Education which started to adopt different regulations during the past several weeks that were in effect at the time the money was appropriated. The schools in the 17 States have followed the current regulations and were counting on the money being available, budgeted accordingly. Now they find out that the proposed regulations, after budgeting money separately, are being developed otherwise, and they are being told by the Department of Education that the money would not be available in the same amounts as they had anticipated.

Mr. WEICKER. Is it the Senator's intent to bar indefinitely the new regulations?

Mr. MELCHER. The answer to the question I might say to my distinguished friend from Connecticut is that the new regulations are being circulated for comments. This amendment does not concern these regulations. We will cross that bridge when we come to it. This amendment would, however, prohibit these proposed regulations from being retroactively applied when the disasterous effects as outlined in my opening statement.

Mr. WEICKER. I agree that the effect of changing method of distribution of impact funds in the middle of the school year would cause substantial problems for local school districts. For this reason, I believe it is only equitable that we accept the amendment of the Senator from Montana. However, I believe that it should be clear that I do so with the understanding that it does not apply except for this current school year.

Mr. MELCHER. I thank the Senator for his consideration and I appreciate his comments.

Mr. WEICKER. Is that the understanding of the Senator from Montana? I repeat: I do so with the understanding that this does not apply except for this current school year.

Mr. MELCHER. Yes. That is our intent. When the regulations have been fully commented on, we will look at them again. But we do not intend that this amendment apply beyond its third year and beyond this amount of money already appropriated.

Mr. WEICKER. It is the Senator's intent for this amendment to apply to the 1983-84 school budgets. Is that correct?

Mr. MELCHER. That is correct. That is absolutely correct.

I thank the Senator.

Mr. WEICKER. Mr. President, I have no further comment.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABDNOR. Mr. President, the Department of Education, and the Office of Management and Budget, which cleared the proposed impact aid regulations which were published in the Friday, March 30, 1984, Federal Register, in spite of the clear intent of the Senate Committee on Appropriations, are acting irresponsibly. I find it ludicrous that the administration is seeking to implement such a substantive change in rate policy—a change that flies in the face of the statutory authority set forth by Public Law 81-874 and Public Law 98-139—during the middle of this fiscal year.

Mr. President, if this change were to take effect during the current fiscal year, hundreds of federally impacted local educational agencies would have to submit a second, new application for assistance under Public Law 81-874. In the meantime, these school systems would receive only a partial payment—which the Department chooses to call an initial payment. In many cases, Mr. President, this payment may fall far below that required to maintain operations throughout the current school year.

Mr. President, this is not the only departmental action which has disrupted the flow of appropriated dollars to federally impacted LEA's. Not only did the Department fail to meet its statutorily mandated deadline for making preliminary payments for fiscal year 1984, in many cases it paid districts at a level greater than that specified in the continuing resolution which provided funding for the first 30 days of the current fiscal year. Consequently, many districts may have been overpaid, and will have to turn back to the Federal Government funds they received several months ago.

Mr. President, I ask unanimous consent to include in the RECORD a portion of a colloquy between the former chairman of the Labor-HHS and Education Subcommittee, Senator SCHMITT, and me, which appeared in the December 18, 1982, CONGRESSIONAL RECORD, and language I initiated which appears in Senate Report No. 98-247, which accompanied H.R. 3913, the fiscal year 1984 Labor-HHS and Education appropriations bill.

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

Mr. ABDNOR. Superintendents from impacted schools in my State were told recently by the Director of the Division of Impact Aid that the Department of Education is considering presently a proposal to change the current method for computing districts' local contribution rates. This proposed change, I am told, would affect districts in some 20 States which utilize "comparable" districts as a means for establishing their local contribution rates.

Further, I understand that since the Department has not been successful in its efforts to defend its current method for establishing rates in recent litigation, it plans to pursue a change in the rate formula during the current fiscal year.

Since such a change in policy would not be subject to the scrutiny either of the public or Congress, does the Senator agree that the Department would be acting contrary to the wishes of this committee should it take any action which, by altering the method for establishing payments for the current fiscal year, would reduce below the pecentage of the fiscal year 1981 payments as specified by Congress through this resolution, districts' fiscal year 1983 payment?

Mr. SCHMITT. I certainly agree that the Department would indeed be acting contrary to the intent of the committee by implementing a change that would reduce fiscal year 1983 payments below that to which a district would be entitled under the rate formula utilized in fiscal year 1981 and given the specifications of this resolution.

The Committee has learned that the Department may again pursue a change in the manner by which rates are established for local educational agencies in States which utilize comparable districts. The Committee opposes any such change in policy which would negatively impact payments to the local educational agencies in these States. The Committee insists upon the opportunity to approve or disapprove any change in current rate policy and directs that the Secretary shall, no less than 45 days prior to implementing any change in the method for establishing rates, inform the Senate and House Appropriations Committees of his intentions.

Mr. ABDNOR. Mr. President, I wish to thank the senior Senator from Montana (Mr. MELCHER), for taking this initiative, and I especially wish to express my appreciation to the distinguished chairman of the subcommittee (Mr. WEICKER), for his unending patience, and that of his most able staff, in tackling issues of importance to this Senator, and to our colleagues who share our interest in the impact aid program. I also wish to thank the distinguished ranking member of the subcommittee (Mr. PROXMIRE), for his assistance in developing an acceptable approach to the problem posed by the proposed regulations.

IMPACT AID AMENDMENT TO THE URGENT SUPPLEMENTAL APPROPRIATIONS BILL

Mr. MOYNIHAN. Mr. President, I am pleased to join with my distinguished colleagues from Montana (Mr. MELCHER) and South Dakota (Mr. ABDNOR) in offering an amendment to House Joint Resolution 492, the urgent supplemental appropriations bill, that would require the Department of Education to distribute payments under section 3 of the impact aid program—Public Law 81-874—in accordance with the regulations in effect on the date of enactment of the current appropriations law—Public Law 98-139.

Under this amendment, local school districts that have qualified for Federal impact aid, for the 1983-84 school year, will be certain to receive these payments in a timely manner. This amendment appropriates no additional funds for the program, nor does it contain any changes in the percentage of entitlement mandated for each category of students by Public Law 98-139. The amendment simply requires the

Department of Education to release final impact aid payments to school districts within 15 days.

The Department of Education's efforts to implement new regulations, those governing local contribution rates under the impact aid program, have necessitated this amendment. Local contribution rates, or the share of educational costs assumed by each school district, are used to determine impact aid entitlements for eligible districts. The proposed regulations, which first appeared in the March 30, 1984, edition of the Federal Register, would alter significantly the current methods by which school districts determine their contribution rates.

Application of these regulations would impose an unfair burden on hundreds of school districts across the country and would violate the explicit intent of the report language on impact aid issued last September by the Committee on Appropriations. School districts used the present regulations to plan their budgets for the current school year. If the regulations are revised at this late date, the delay of final payments and changes in entitlement will cause budget shortfalls. The Committee on Appropriations, in the report which accompanied the Labor-HHS-Education appropriations bill for fiscal year 1984, recognized that such problems might arise if the impact aid program's regulations were changed. The report stated:

The Committee has learned that the Department (of Education) may again pursue a change in the manner by which rates are established for local educational agencies in States which utilize comparable districts. The Committee opposes any such change in policy which would negatively impact payments to the local educational agencies in these States.

There is little doubt that the Department's proposed regulations would negatively impact payments to hundreds of local school districts. Federally impacted school districts already have lost large amounts of Government assistance under the Reagan administration's education budget cuts. There is no valid reason to further disrupt the education of American school children in federally connected areas. Any changes in the methods used by school districts to calculate their local contribution rates should not be implemented at the expense of the very children the guidelines are intended to serve.

The amendment now before the Senate will guarantee that all federally impacted school districts are treated equitably under the current law. I urge my colleagues to lend it their support.

Mr. PRESSLER. Mr. President, I support this amendment on impact aid offered by my distinguished colleagues. The importance of impact aid to South Dakota is very clear. Our reservation schools and the Douglas School, serving Ellsworth Air Force Base, rely heavily on impact aid as a source of revenue. Threatening to implement a new method of establishing payment rates in the middle of the year sends the wrong message to these schools.

The impact aid school districts are already 9 months into a budget year. It is unfair for the U.S. Department of Education to attempt to make rate alterations for the present year. The amendment sends a clear message to the Department: Do not change the method for establishing payment rates in the middle of a budget year.

There are several school districts scattered across my State that have a substantial amount of nontaxable Federal property. Impact aid helps compensate for the loss of tax revenue on this property. In some districts, most of the financial support for the schools comes from impact aid. There are simply no alternatives for these schools.

Many South Dakota schools would be forced to close if Federal impact aid assistance were discontinued. Even the threat of major rate changes can be very destabilizing to them. They are constantly forced to deal with uncertainty about Federal intentions in planning budgets. I have joined in sponsoring this amendment because I believe it will send a decisive message to the U.S. Department of Education. I urge my colleagues to join me in supporting this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I do not have a request for any more time other than for myself.

I move the adoption of the amendment.

The PRESIDING OFFICER. Does the Senator yield back?

Mr. WEICKER Mr. President, I yield back the balance of my time.

Mr. MELCHER. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana (Mr. MELCHER).

The amendment (No. 2893) was agreed to.

AMENDMENT NO. 2894

(Purpose: To increase payments for summer youth employment programs to assure that service delivery areas are held harmless for 90 percent of such payment for fiscal year 1984)

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois (Mr. DIXON) proposes on behalf of himself, Mr. PERCY, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. D'AMATO, Mr. MOYNIHAN, Mr. HEINZ, Mr. LEVIN, Mr. RIEGLE, Mr. SARBANES, Mr. EAGLETON, Mr. SASSER, Mr. HUDDLESTON, Mr. LAUTENBERG, and Mr. GLENN, an amendment numbered 2894.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution insert the following:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND SERVICE EMPLOYMENT SERVICES

For an additional amount for part B of title II of the Job Training Partnership Act, $100,000,000, which—

(1) shall be allotted, by the Secretary of Labor, within 7 days of the date of enactment of this Act, to States which have any service delivery area which received less than 90 percent of the amount of payments for summer youth employment and training programs for fiscal year 1984 than in fiscal year 1983, in accordance with section 251 of the Job Training Partnership Act; and

(2) shall be allocated among service delivery areas within each such State so that the amount of payments for fiscal year 1984 for any service delivery area within the State which received less than 90 percent of the amount of payments for summer youth employment and training programs made in that area in fiscal year 1983 will be increased to an amount equal to 90 percent of the amount of payments for summer youth employment and training programs made in that area in fiscal year 1983: *Provided*, That if the amount appropriated under this heading and allotted to a State is insufficient to make the full payments required by this paragraph the amount of the increase of any payment to which service delivery areas in the State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis: *Provided further*, That if the amount appropriated under this heading and allotted to any State is greater than is needed to make the full payments required by this paragraph, the Secretary shall reallot the excess to all States which cannot make the payments to meet the 90 percent hold harmless provision on the basis of the need for payments described in this paragraph: *Provided further*, That, where the boundaries of service delivery areas differ from prime sponsor areas with respect to the units of general local government covered determination of payments shall be based on the percentage shares of allocations which were available to the units of general local government within each such area in fiscal year 1983.

Mr. DIXON. Mr. President, this amendment is a partial restoration of funding to areas of the country which have experienced severe cuts in the summer youth employment program.

I received a letter from the mayor of Chicago, Harold Washington, informing me that unless something is done, the city of Chicago will lose 16,000 jobs for disadvantaged young people this summer. In the city of Chicago alone, the cut in funds is $11.38 million, or 47 percent! I would like to read

Mayor Washington's letter at this point in my remarks.

MARCH 22, 1984.

DEAR SENATOR: I seek your support in obtaining a supplemental appropriation for the summer youth employment program. The administration has decreased funding by $100 million in fiscal year 1984.

This decrease, and change in the allocation formula, means a 47-percent reduction for the city of Chicago and a loss of 16,000 summer jobs. This reduction is disturbing when you consider that there are estimated to be from 150,000 to 250,000 youths in Chicago who are eligible for and in desperate need of summer employment.

Although Chicago is the hardest hit of all the cities, others are receiving drastic cuts. For example: Cleveland, a 42 percent reduction; Dallas, 40 percent; Indianapolis, 39 percent; Minneapolis, 38 percent; and New York City, a 20 percent reduction.

I urge you to support a $100 million supplemental appropriation that will rectify this tremendous reduction and bring the program back to last year's funding level. The summer employment programs are scheduled to begin on May 1, 1984; the time for action is limited. Your support of this critical appropriation is needed for the youth of Chicago who will be severely impacted by the reduction.

Please contact the City of Chicago Office, 499 Capitol Street SW., Suite 111, Washington, D.C. 20003 (telephone: 202/554-7900) if you have any questions.

Sincerely,

HAROLD WASHINGTON, *Mayor.*

The shortfall for this important program results from a number of factors:

The changeover from the Comprehensive Employment and Training Act to the Job Training Partnership Act;

A formula change which eliminates a hold-harmless provision for substate regions;

The elimination of the 5-percent discretionary funding which was previously available to high unemployment areas;

And a $100 million reduction in funds from fiscal year 1983.

That all might make sense to the Department of Labor people downtown, but how do you tell a young person in Chicago or Pittsburgh or Portland or Minneapolis? How do you tell that to the kids in this country who depend on this program to help support their families—who use this money to pay for their schooling? I do not know how to do that, and I would not want to try. These kids have faith in this system of government, and if we turn our backs on them, it will have an effect on their future confidence in all of us. It is a small price to pay to provide a start for needy young people, and the cost to us, in terms of lack of job experience for those teenagers, could well impair their ability to find work as adults.

I have received letters from many teenagers and adults, concerned about the cuts in this program. They are worried, not only about the 1,553,000 jobless young people in this country, but about the consequences of that critical mix of ingredients—summer, lots of time on kids' hands, no money, and a certain desperation that comes from trying to work, wanting to work, and not finding jobs.

The following letter from a very responsible young person illustrates the point.

MARCH 23, 1984.

DEAR SENATOR DIXON: Chicago needs more summer youth jobs because most teenagers' parents are out of work and summertime is the only chance we teenagers get to earn some money honestly. What are teenagers supposed to do if these jobs are cut down? Teenagers don't mind getting paid minimum wage. What we do mind is not getting paid at all. I personally use my money to prepare for school in September. Parents cannot keep supporting us. We have to get out into the real world and learn how to earn our own money. Please give us a chance and reconsider.

Sincerely,

LOURDES VALENTINE.

The only data available to us on how local areas are being affected are surveys conducted by the National League of Cities, the National Association of Counties, and the National Governors' Association. Of 60 areas checked, 43 experienced reductions over 10 percent. Those areas and the percentage they were cut are:

	Percent
Birmingham, Ala	32
Mobile, Ala	16
Phoenix, Ariz	32
Fresno County and city, Calif	25
Los Angeles County and city, Calif	22
San Diego County and city, Calif	11
San Francisco County and city, Calif	37
Santa Clara County, Calif	28
Bridgeport, Conn	36
New Haven, Conn	12
Wilmington, Del	31
Broward County, Fla	32
Jacksonville, Fla	21
Tampa, Fla	21
Chicago, Ill	47
Gary-Lake, Ind	39
Indianapolis, Ind	39
Eastern Kentucky cep	29
Louisville-Jefferson, Ky	31
Baltimore City, Md	17
Baltimore County, Md	32
Ann Arbor Area, Mich	18
Detroit, Mich	20
Flint-Genessee, Mich	30
Grand Rapids, Mich	41
Oakland County, Mich	28
Minneapolis, Minn	38
Kansas City, Mo	14
St. Louis, Mo	37
Newark, N.J	59
Buffalo, N.Y	18
New York City	20
Cleveland, Ohio	42
Oklahoma City, Okla	22
Portland, Oreg	20
Philadelphia, Pa	23
Pittsburgh, Pa	23
Chattanooga/Hamilton County, Tenn	17
Memphis/Shelby County, Tenn	19
Nashville/Davidson County, Tenn	29
Dallas, Tex	40
Salt Lake City, Utah	17
Seattle, Wash	16

I would like to clarify the intent of this amendment. The language reads that funds shall be allotted "to States which have any service delivery area which received less than 90 percent" of last year's appropriations. I understand that the designated areas differ from last year. The intention of this legislation is that any prime sponsor, which is now a service delivery area or a part of a service delivery area, which experienced more than a 10-percent cut in all funds for this program—discretionary, regular, and supplemental appropriations—would be brought up to 90 percent of last year's level.

I believe this amendment is a responsible one. It does not even bring all areas to the same level as last year, but only to within 90 percent of last year. More could be done, but I am a realist, as my colleagues know, and I think a 10-percent cut is better than a 47-percent cut. If it is the will of this body to approve enough money to bring every area of the country up to 100 percent of last year's level, I would be delighted. For those who may believe that $100 million is more than is necessary to accomplish the 90-percent level, I would have to say, that to the best of my knowledge, that is not the case.

This amendment has strong bipartisan support. I would like to thank my colleagues, Senators PERCY, KENNEDY, BOSCHWITZ, METZENBAUM, D'AMATO, MOYNIHAN, HEINZ, LEVIN, RIEGLE, SARBANES, EAGLETON, SASSER, HUDDLESTON, LAUTENBERG, and GLENN for their cosponsorship.

This amendment has the strong support of a wide variety of national organizations: The National League of Cities, the U.S. Conference of Mayors, the Chicago League of Women Voters, the AFL-CIO, the National Alliance of Business, the cities of Chicago, New York, Cleveland, Pittsburgh, Philadelphia, Detroit, the National Youth Employment Coalition which consists of 29 national organizations serving over 100,000 young people a year, 70000, the National Child Labor Committee, Campfire, Inc., United Neighborhood Centers, Council of the Great City Schools, and the National Education Association.

Mr. President, as I understand it, my distinguished friend and colleague, the Senator from Connecticut (Mr. WEICKER) has carefully examined this amendment, and his staff has examined it, and they have no objection. In fact, the Senator supports this effort.

Mr. PERCY. Mr. President, as an original cosponsor of the amendment to restore funding for the summer youth employment program, I would like to point out to my colleagues why this amendment is so important to thousands of young people in Chicago, and others across the country.

The latest available unemployment figures—1982—for 16 to 19 year-olds in Chicago speak for themselves: No less than 44 percent of these teenagers

who are looking for work are unemployed. While this situation may have improved somewhat lately, it is estimated to remain above 40 percent. Mayor Washington estimates that between 150,000 and 250,000 teenagers in Chicago alone will seek work, and far too many will be unable to find employment this coming summer.

The proposed 47-percent cut in Chicago's summer job funding—the largest cut of any major city in the United States—will mean the loss of 16,000 summer jobs. This reduction is unconscionable—especially in view of the terribly high unemployment rate in Chicago.

A recent Chicago Tribune described what the program has meant to inner-city teens. Last summer's program included a tutoring program at Malcolm X College on the west side of Chicago, where more than 40 high school and college students drilled grade school pupils in remedial reading, writing and mathematics, the article reported. For the 40 tutors, the program meant a summer job, some spending money and, most important, some pride. It meant self-respect. It meant having younger kids looking up to you. It meant responsibility, one of the tutors said.

One high school principal warned that the drastic cuts in the summer jobs program is going to make for many frustrations and a long hot summer. People who are unemployed are more likely to get into all sorts of crime, particularly teenagers, said one of the program's organizers.

Mr. President, these cuts are simply pennywise and pound foolish. By denying 16,000 teenagers with the chance to have a job—their first job in most cases—we are denying them a chance to learn about responsibility, to learn what it is to work a 40-hour week, and to learn how to manage their own money they worked hard to earn. These lessons learned will cost a few dollars now, but will pay off in the long run.

The amendment I am cosponsoring, with my colleague Senator DIXON, will not raise the cost of the summer jobs program over last year's level. States will be given funds which are to be distributed to those cities which were cut by more than 10 percent, and these cities can have as much as 90 percent of their cuts to be funded. I believe that this formula is very equitable, because those cities which were cut the most will receive the most aid.

Mr. President, I am one of the first to support efforts to reduce spending in order that we can reduce the deficit. Reducing the deficit, thereby cutting interest rates, is by far the most effective way to get America back to work. However, we cannot expect one city, or one program for that matter, to withstand a nearly 50-percent reduction. This is simply not equitable, especially when one considers the serious unemployment problems among teenage job seekers.

I urge the Senate to adopt this amendment to provide some relief for those cities whose summer job programs have been devastated by these cuts.

I ask unanimous consent that a letter from the mayor of Chicago, dated March 22, 1984, be printed in the RECORD.

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

OFFICE OF THE MAYOR,
City of Chicago, March 22, 1984.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I seek your support in obtaining a supplemental appropriation for the Summer Youth Employment Program. The administration has decreased funding by $100 million in FY 84.

This decrease, and a change in the allocation formula, means a 47% reduction for the City of Chicago and a loss of 16,000 summer jobs. This reduction is disturbing when you consider that there are estimated to be from 150,000 to 250,000 youths in Chicago who are eligible for and in desperate need of summer employment.

Although Chicago is the hardest hit of all the cities, others are receiving drastic cuts. For example: Cleveland, a 42% reduction; Dallas, 40%; Indianapolis, 39%; Minneapolis, 38%; and New York City, a 20% reduction.

I urge you to support a $100 million supplemental appropriation that will rectify this tremendous reduction and bring the program back to last year's funding level. The Summer Employment Programs are scheduled to begin on May 1, 1984; the time for action is limited. Your support of this critical appropriation is needed for the youth of Chicago who will be severely impacted by the reduction.

Please contact the City of Chicago office, 499 South Capitol Street, S.W., Suite 111, Washington, D.C. 20003 (telephone: 202/554-7900), if you have any questions.

Sincerely,

Harold Washington, Mayor.

● Mr. METZENBAUM. Mr. President, I am pleased to be a cosponsor of the Dixon amendment to restore badly needed funds to the summer youth employment program.

This amendment would provide $100 million to States for distribution to service delivery areas which have lost more than 10 percent of their previous year's allocation; that previous year's allocation for some large cities included the regular and supplemental appropriations, and discretionary funds awarded by the Secretary last year under section 483(b) of CETA. All these sources are to be considered when determining the amount to be awarded under this amendment.

My own city of Cleveland, for example, has suffered a loss of approximately 56 percent in its summer youth employment funds. Mayor Voinovich recently informed me that this reduction means the loss of 3,500 part time summer work opportunities for the city's teenagers. I know that other cities, including Bridgeport, Chicago, and Philadelphia have also experienced significant reductions. I wish to point out, Mr. President, that if a major improvement in our economy is indeed taking place, it has not as yet been felt in a major way in cities like Cleveland. Therefore, there is virtually no hope that the private sector can replace these lost summer jobs.

For years, the summer youth employment program has been an important part of this Nation's effort to provide young people, particularly those who are disadvantaged, with a chance to learn at firsthand about the demands and expectations of employers. For many young people in many communities, this is the only opportunity they will have to gain this practical knowledge and experience.

As Mayor Voinovich has stated, the most important and refreshing aspect of the program is the effect it has had on our youth. They are excited about the opportunity to work and have proven in large measure to be excellent employees.

In programs conducted throughout Ohio, young people learn new skills; they are exposed to a variety of occupational areas; they hear from guest speakers about the world of work and they provide enormous benefits to their communities because of the work in which they are involved. As a result, young people feel they have an important stake and investment in their neighborhoods.

All the evidence points to the fact that prior work experience as a teenager is an important contributor to an individual's success in the labor market as an adult. With a national unemployment rate among all teenagers of 17 percent and an unemployment rate among black teenagers of close to 50 percent, the tragic fact is that too many young people are reaching adulthood without ever having worked.

Failure to see the value of providing that experience is another example of the shortsighted, penny-wise and pound-foolish approach of the Reagan administration to investments in the country's future. I urge that the amendment be adopted.●

● Mr. GLENN. Mr. President, I am pleased to join my colleagues in introducing this amendment to House Joint Resolution 492, which will provide an additional $100 million to the summer youth employment program. This supplemental will restore program funding to its 1983 level, and insure that local areas receive at least 90 percent of the program allocation that they received last year.

At a time when youth unemployment is over 19 percent, and black teenage unemployment is over 43 percent, we cannot afford to allow the

substantial reductions in funding that would occur in the absence of this amendment. Cleveland, Ohio, an area where overall unemployment remains above 9 percent, faces a reduction in funds of 42 percent. This tremendous loss of funds will not only mean that thousands of young people will be unable to find productive ways to spend their summer, but that they will be competing with unemployed adults for the few regular jobs that are available.

The summer youth employment program has a proven record of success. In 1983, over 800,000 young people spent their summers providing services to local communities and businesses. They learned what it means to have responsibilities, and took that critical first step into the labor market.

The costs of doing nothing are high—in human, social, and economic terms. Many young people who cannot find employment this summer will turn to crime, antisocial activities, and "hustling" in the underground economy. We have a means to prevent these serious consequences. I urge my colleagues to support increased funding for the summer youth employment program.●

● Mr. MOYNIHAN. Mr. President, I rise today with my distinguished colleagues from Illinois, Senators DIXON and PERCY, to offer an amendment to increase the fiscal year 1984 funding for the summer youth employment and training program by $100 million.

Members of this body will recall that title II of the Job Training Partnership Act, signed into law by the President in October 1982, provided for summer youth employment and training programs. These programs, previously funded under the Comprehensive Employment and Training Act, provide summer employment and training for our Nation's disadvantaged youth under the age of 22.

It is an undisputed—and most disturbing—fact that far too many American young persons are disadvantaged, lacking proper education, employment, and other opportunities we often take for granted.

In recent months, the Department of Labor has reported some encouraging news on the unemployment rate. The total unemployment rate declined from a November 1982 level of 10.7 percent to 7.8 percent in February 1984. But a closer examination of the Labor Department's figures reveals that many segments of the population, including youth, have not benefited greatly from the recovery. The unemployment rate for persons aged 16 to 19 was an unacceptably high 19.3 percent in February 1984, down from the average 1983 level of 22.4 percent. The Labor Department also reports that the unemployment rate for black youths in February 1984 was a staggering 43.5 percent.

In my home State of New York, more than 400,000 young persons between the ages of 16 to 21 are disadvantaged. Almost 150,000 of these young persons need employment and training opportunities.

Mr. President, I ask my colleagues to review these statistics carefully, to try to understand the suffering and human toll the figures represent.

While the youth unemployment problem remains acute, Mr. President, we are reducing the support for a program to help alleviate the problem, the summer employment program. Congress appropriated $824.5 million for the summer youth employment program in fiscal year 1983. This fiscal year, under the Job Training Partnership Act, we have appropriated only $724.5 million, $100 millon less than for fiscal year 1983.

This reduction in funds will directly affect our Nation's disadvantaged young people. In 1983, the summer youth employment program in New York provided 72,500 disadvantaged young persons with an opportunity to work at a wide variety of entry-level jobs. These jobs mean a great deal to a young person who otherwise would not find work. The jobs provide our youth with a sense of hope and self-confidence, knowing that they, too, can have an opportunity to advance in America. Under the lower appropriation level for fiscal year 1984, however, New York will receive over $6 million less in Federal support, and 12,000 fewer disadvantaged New Yorkers will be able to participate in the summer employment program.

Mr. President, the amendment we offer today simply provides an additional $100 million for the summer youth employment and training program, to restore funding to the fiscal year 1983 level. The amendment also provides that these additional funds will be allocated to areas that have absorbed a cut in funding of more than 10 percent from 1983 levels, to bring support for these areas up to 90 percent of the 1983 level.

Mr. President, this is an entirely reasonable and appropriate increase. We cannot, must not, neglect our Nation's disadvantaged young persons. This amendment, in effect, is an investment in America's future. One well worth making. I urge my colleagues to support the amendment.●

● Mr. KENNEDY. Mr. President, I want to lend my support to the amendment being offered today by my good friends and colleagues from Illinois, Senators DIXON and PERCY. I also want to commend them for their leadership, concern, and quick action to respond to a significant problem that will adversely affect the summer youth employment program unless it is corrected immediately.

As a result of changes made in the Job Training Partnership Act which Senator QUAYLE and I sponsored here in the Senate, a number of cities around the country are facing major reductions in funds they so desperately need to create jobs for unemployed young people this summer. These changes in the formula, coupled with a cutback in funds by the Reagan administration, will mean that cities all across this country will be able to hire fewer disadvantaged teenagers this year.

Newark, N.J., stands to loose almost 60 percent of the summer youth money it received last year. Gary, Ind., faces a cutback of 55 percent. San Francisco, Calif., is looking toward summer with almost a 40-percent cutback in resources. Phoenix, Ariz., stands to loose over 30 percent. In my own State of Massachusetts, the impact has been less severe. The cities there are losing on the average 12 percent in funding. I must tell my colleagues that when those of us from the House and Senate deliberated this important new job training legislation we were not aware of the impact that the change in formula would have nor did we anticipate that the administration would propose cutbacks in funding for summer jobs. These two factors have led to the results you are hearing about today.

In attempting to understand the full impact of these actions my staff contacted the Department of Labor. I was disturbed to learn that the Department cannot provide us with information on the amount of money that is available to local communities this summer. The only information they can provide is on the funds that have been allocated to each State. I believe this is a serious problem which I intend to get to the bottom of.

While the JTPA gives States new and important responsibilities, it was not our intention to give States discretion in allocating funds to local communities. The same formula which the Department of Labor uses to fund the States is also to be used by the States in funding local areas. It is my understanding that the Department of Labor has interpreted this provision of the law to mean that while the States must apply the same formula factors, they have discretion in determining what data to use to determine those factors. While this explains why the Department cannot tell Congress how much summer money is available in communities across the country, it clearly violates the intent of Congress to insure that localities would all be treated equally and equitably in the distribution of funds.

I am very concerned that the Department has abdicated its responsibility not only in this area but in a number of other areas. I intend to raise these issues with the newly nominated Assistant Secretary of Employ-

ment and Training, Mr. Cassilas. And I invite my colleagues to do the same.

I also want to point out to my colleagues that the amendment of the Senators from Illinois deals only with this summer's program. It will be necessary for us to consider this matter again in the course of oversight hearings on the implementation of the Job Training Act.

I want to again commend my colleagues on their leadership on this issue and I thank the managers of this bill for their willingness to accept this provision. I urge them to preserve this amendment in conference.●

Mr. DIXON. Mr. President, if there is no objection from my distinguished colleague, the senior Senator from Connecticut, at the appropriate time I will yield back the remainder of my time.

Mr. WEICKER. Mr. President, I am delighted to accept this amendment, which raises the appropriation for the Corporation for Public Broadcasting to newly authorized levels.

Public radio and television provide extraordinary services to tens of millions of Americans every day. For a remarkably small investment, public broadcasting addresses essential educational informational and cultural needs of all of our citizens—but more especially our most important national resource—our children.

This increase in appropriations of $70 million over the next 3 years will allow public broadcasting to preserve its current services, restore programing cuts that have been made, and begin new programing services for the public. Increases in TV national programs production will help principally in furthering CPB's first program priority—children's programing.

I urge my colleagues to support this amendment.

I yield back the remainder of my time.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2894) was agreed to.

Mr. DIXON. Mr. President, I want to express my appreciation to the distinguished Senator from Connecticut for his assistance.

AMENDMENT NO. 2895

(Purpose: To appropriate additional funds to support the activities of the Corporation for Public Broadcasting in fiscal years 1984, 1985, and 1986)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself, Mr. GOLDWATER, Mr. BYRD, and Mr. MOYNIHAN, proposes an amendment numbered 2895.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, between lines 2 and 3, insert the following:

SEC. 2. For additional payment to the Corporation for Public Broadcasting, as authorized by the Federal Communications Commission Authorization Act of 1983, Public Law 98-214, the following amounts, which shall be available within limitations specified by said Act, are appropriated, notwithstanding any other provision of this resolution: For fiscal year 1983, $15,000,000; for fiscal year 1985, $23,000,000; and for fiscal year 1986, $32,000,000: *Provided*, That none of the funds appropriated under this section shall be used to pay for receptions, parties, and similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds appropriated under this section shall be available or used to aid or support any program or activity that excludes from participation, denies benefits to, or discriminates against any person on the basis of race, color, national orgin, religion, or sex.

Mr. STEVENS. Mr. President, the amendment that Senator GOLDWATER and I are proposing would appropriate additional funds to support the activities of the Corporation for Public Broadcasting (CPB). This supplemental appropriation is authorized by the Federal Communications Commission Authorization Act of 1983, which the Senate approved last year by unanimous consent. I am pleased to announce that the distinguished minority leader and the senior Senator from New York have decided to cosponsor this amendment.

A basic appropriation of $130 million for fiscal years 1984 through 1986 has already been made through the advance funding procedure used to appropriate funds for public broadcasting. Our amendment would increase this basic appropriation by $15 million in fiscal year 1984, $23 million in fiscal year 1985, and $32 million in fiscal year 1986.

I want to emphasize that the FCC Authorization Act and this amendment are not intended to roll back the cuts in CPB funding that were made in the 1981 reconciliation process. Public broadcasting will continue to bear its share of the burden of reducing Federal budget deficits. The modest funding additions we are proposing now will merely stabilize the fiscal year 1983 CPB funding level, thus allowing the Corporation to deal with increases in the number of eligible stations and inflation.

Almost two-thirds of the funds appropriated by this amendment will go into community service grants to local public television and radio stations around the Nation. Most of the remaining money will be used for national program production. Only a small amount will be used to defray CPB system expenses such as satellite financing, music royalty fees, and administration.

Mr. President, this amendment makes modest and sensible adjustments in the funding levels for the Corporation for Public Broadcasting. I hope that it will be accepted without further debate.

Mr. BINGAMAN. Mr. President, public broadcasting is an important resource. Part of Congress responsibility is to see that adequate funds are provided to assist these public radio and television stations in providing fine alternative programing to the commercial networks.

In my State of New Mexico the three public television and seven public radio stations provide the informational and educational link between the regions of the State which they serve. New Mexico is blessed with a unique multicultural heritage and these stations work diligently to enhance that heritage. For instance, these stations provide locally produced programing in Spanish, English, Navajo, and Zuni. In fact, recently the school board of the Alamo Band of the Navajo Tribe signed on a public radio station at their school where there is not even a telephone. This station forms a vital communication link to an isolated community. The local board had enough faith in public radio to underwrite the project.

The public stations in my State are always responsive to community need. These needs are as disparate as the areas they serve. By increasing the funding we will help see that adequate moneys are available to produce quality local programing. In addition to assisting local programing we will be giving a much needed boost on the national level for further development of quality informational and educational programs.

Public broadcasting has been on the short end of Federal funding for a number of years and now with the request for additional supplemental assistance this is a fine way for Congress to show we care about public broadcasting. When you combine this with the bill recently introduced by Senator GOLDWATER, which I was pleased to cosponsor, we have taken a step for the coming years to assure the survival of public broadcasting. The money which the Federal Government can provide should give added incentive to the private sector and the viewers to provide additional support.

I urge my colleagues to follow the lead of the distinguished Senators from Arizona and Alaska and support this additional funding for public broadcasting.

Mr. MOYNIHAN. Mr. President, I rise today to express my strong support for the amendment advanced by my distinguished colleagues from Alaska Senator STEVENS, and from Arizona Senator GOLDWATER, to increase funding for the Corporation for Public Broadcasting (CPB). This amendment increases the CPB's appropriation from $130 million per year for fiscal year 1984 to fiscal year 1986, to a new level of $145 million for fiscal year 1984, $153 million for fiscal year 1985, and $162 million for fiscal year 1986. This increased funding is both necessary and appropriate.

Since 1967, when Congress first created the Corporation for Public Broadcasting, the CPB has played a large and important role, broadcasting high quality children's, arts, news, and public affairs programs to the homes of millions of Americans. How many of our children grew up watching the "Electric Company," "Mr. Roger's Neighborhood," or "Sesame Street," with the mythical characters Big Bird, Kermit the Frog, and Ernie? These shows charmed and educated our young, teaching not only the essential three R's, but also about American values. And how many of us have spent countless evenings watching episodes of "Upstairs, Downstairs," with Allister Cooke, and enjoying the operas, concerts, and documentaries that are simply not avilable on commercial television? Without adequate Federal funds, I doubt whether these quality products would be available to American audiences.

In recent years, though, the Federal Government has reduced funding for the CPB, undermining this Nation's commitment to excellence in television and radio broadcasting. Since 1981, Federal funding for the CPB has decreased by 20 percent—from $162 to $130 million in fiscal year 1984. This is indeed disturbing. These cuts have forced the CPB to reduce funds to local stations to produce and acquire programs by 26 percent. As well, the CPB has reduced funding for expansion into unserved areas, and must cut back on children's television, which ought to be our highest priority.

The Reagan administration has argued that private funds will offset Federal funding reductions. This year, in his fiscal year 1985 budget, the President has requested a further reduction in funding for the CPB, from $130 to $110 million in fiscal year 1986, and from $110 to $100 million in fiscal year 1987.

The Congress wisely rejected the administration's proposed budget cuts for the Corporation for Public Broadcasting for fiscal years 1984 through 1986, by appropriating $130 million per year through fiscal year 1986. But these levels are simply not sufficient for the CPB to maintain the high caliber programing we have all come to enjoy. And I question whether private funds will be able to make up for drastic and continued reductions in Federal money.

By increasing the appropriation for the CPB to the levels that the Congress actually authorized, this amendment will allow the Corporation for Public Broadcasting to enhance its services. If we are to maintain the high quality publicly supported broadcasting system Congress intended when it created the CPB, we ought to approve sufficient Federal funds to finance it. I urge my colleagues to support this vital amendment.

The PRESIDING OFFICER (Mr. SPECTER). Is all time yielded back?

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2895) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I believe we only have about two or three amendments remaining which would mean we could proceed to third reading after we wait for Senators MCCLURE, BAUCUS, and MATSUNAGA.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2896

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment numbered 2896.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the joint resolution insert:

SENATE

CONTINGENT EXPENSES OF THE SENATE

* * * * *

STATIONERY (REVOLVING FUND)

To provide additional capital for the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), $61,000.

Mr. HATFIELD. Mr. President, this amendment will put $61,000 into the revolving fund for the purpose of printing and selling "A History Of The Senate," which is a document which has been created by resolution of the Senate, administered under Mr. Hildenbrand's office.

This document will be sold at the counters here in the Capitol and the money will be put back into the fund as a revolving fund to print more copies. This amendment has been cleared by the Legislative Subcommittee of the Appropriations Committee. I know of no opposition to it.

Mr. President, I yield back the remainder of my time and urge adoption of the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Is there further debate on the amendment?

Mr. MELCHER. Mr. President, there is no objection to the amendment on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2896) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2897

(Purpose: To authorize the construction of critical inland waterway facilities)

Mr. HATFIELD. Mr. President, I send an amendment to the desk in behalf of Mr. BYRD and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) for himself and Mr. BYRD, proposes an amendment numbered 2897.

At the appropriate place add the following:

SEC. . (a) The authorization for the Bonneville Lock and Dam project, Oregon and Washington, contained in the first section of the Act entitled "An Act authorizing construction of certain public works on rivers and harbors, and for other purposes", approved on August 30, 1935 (49 Stat. 1028), is amended to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct a new lock in accordance with the report of the Chief of Engineers, dated February 10, 1981, at an estimated cost of $177,000,000.

(b) The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to replace the Gallipolis locks, Ohio River mile 297.0 Ohio and West Virginia, by constructing one 110-foot by 600-foot lock in a 1.7 mile-long canal landward of the existing lock, generally in accordance with the recommendations of the Huntington District Engineer in his report dated February, 1981, as approved by the Ohio River Division Engineer, with such modifications in the design of the replacement of such locks as the Chief of Engineers deems necessary and advisable, at an estimated cost of approximately $313,000,000.

Mr. HATFIELD. Mr. President, there have been a number of studies made by water resources groups and the Corps of Engineers and others, and the studies have indicated that there are five major waterway projects needing construction. Two of these, Bonneville lock and dam and Gallipolis lock and dam, have reached a point of financing and completing all the preliminary design and engineering, ready for appropriation, for construction. These have been approved in a bill which has emanated from the authorization committee on two of the five. In this amendment, Senator BYRD and I urge the authorization. There is no impact on the budget because there are no moneys involved. These two projects would indeed relieve much of the difficulty we now have in an inefficient inland waterway system.

This amendment would allow work to continue on the Bonneville navigation lock on the Columbia River. The project is located at Bonneville lock and dam, 40 miles east of Portland, Oreg. The proposed project would provide for construction of a new lock, 86 feet wide, 675 feet long, and at least 15 feet deep. The horizontal dimensions would be the same as the seven existing upstream locks. The navigation problems at Bonneville lock, including lockage delays and damages from accidents, occur due to the restricted size of the lock chamber, hazardous approaches, and constricted Columbia River Channel. Waterborne commerce, which is expected to increase to 13,00,000 tons per year, will equal or exceed the lock capacity by 1988. The existing upstream locks are capable of handling the anticipated traffic beyond the year 2040. (Report of Chief of Engineers, Mar. 14, 1980.)

All of the preconstruction engineering and design work is completed on this new lock. Without passage of the amendment, work on this critical project will be halted in June of this year.

Mr. President, this is unquestionably a deserving project. It has been approved by the appropriate committees of both Houses. It has the support of the administration. There is no opposition of any kind and the project is supported by the congressional delegations of Oregon and Washington. State governments and Members of Congress from Oregon, Washington, Idaho, and Montana have expressed support.

We must start to address the issue of serious decay and deterioration of our inland waterway system. The national waterway system is an integral part of the intermodal transportation network which is necessary to move bulk materials and products to domestic and international markets. Since 1824, the Corps of Engineers has been responsible for assuring the operation of the national waterway system. The corps operates and maintains about 219 lock and dam facilities and other control structures on some 25,000 miles of inland and intercoastal waterways. For the last 35 years, resources have been directed to extending the waterway system rather than developing the existing system. Consequently, needed maintenance, including rehabilitation often has been postponed. Priorities must now shift to upgrading the existing waterways.

We simply cannot ignore any longer the condition of many locks and dams on this important national waterway system. Over 42 percent of the structures on this system are over 40 years old. Many key locks and dams were constructed over 50 years ago. They are obsolete and cannot accommodate existing and future traffic. As a result, bottlenecks at the Nation's locks seriously affect shipping, and pose dangerous safety problems.

This amendment reflects these concerns and the recommendations of the national waterways study, a comprehensive study of the existing navigation system. The national waterways study, a 5-year review effort completed in March 1983, clearly indicates the immediate need to proceed with national waterway improvement projects. This study recommended a new Bonneville lock on the Columbia-Snake Waterway as one of its highest priorities.

One of the issues which has slowed the water project authorization process has been cost sharing. Some are proposing the imposition of additional user fees or taxes from local project sponsors on all water projects. Unlike other water resource projects, the waterway system has an established mechanism by which current users assist in financing improvements in the system. Under Public Law 95-502, there is already a users' tax on fuel which provides for recovery of a portion of waterway costs. The tax is $0.06 per gallon in fiscal year 1983 and rises to $0.10 per gallon in fiscal year 1986. Fuel tax receipts are deposited in the inland waterways trust fund and in fiscal year 1984, approximately $100 million will be collected and available for appropriation from the fund. It has not been possible to use the revenues now accumulating in the trust fund because there have been no authorizations providing for appropriations from the fund. The Department of Army has proposed legislation that would authorize use of the trust fund to finance capital investments. No action, however, has been taken on this or any other proposal. Nevertheless, the point should be emphasized that there is a cost-sharing fund in place with revenues available to help finance inland waterway projects.

Mr. President, I believe that Congress must address the issue of cost sharing for all water resource projects. As one Member of the Senate, I will do everything I can to help expeditiously resolve this difficult policy issue. In the inland waterway area, where there is already cost sharing, we simply must proceed with critical projects such as the new navigation lock at Bonneville.

Mr. BYRD. Mr. President, I am pleased to cosponsor the amendment offered by the senior Senator from Oregon (Mr. HATFIELD), who is the very distinguished chairman of the Senate Appropriations Committee.

Mr. President, this amendment would authorize the construction of two vital waterway projects—the Bonneville Lock and Dam in Oregon and Washington and the Gallipolis Locks and Dam in West Virginia and Ohio on the Ohio River. All work on both of these projects has come to a virtual stop due to congressional inaction on necessary authorizing legislation.

Gallipolis is situated in the Middle Ohio Valley at River Mile 279.2, about 14 miles downstream from the mouth of the Kanawha River in West Virginia and about 30 miles upstream from the city of Huntington, W. Va. The new locks would be in Mason County, W. Va.; the abutment of the dam is in

Gallia County, Ohio. The proposed plan of improvement includes contruction of two new locks in a canal bypassing the existing dam.

Construction of the project will complete a series of 1,200 feet by 100 feet locks from near Pittsburgh to Smithland Locks and Dam at river mile 918.5. At the present time the locks at Gallipolis are the only ones in the region that have not been expanded to this larger, more efficient size. The existing locks at Gallipolis are only one-half the modern size locks in use elsewhere, and the resulting bottleneck greatly impedes the efficient utilization of the entire Ohio River navigation system. The severity of this problem is clearly reflected in the benefit cost ratio of 12 to 1 favoring the construction of two new locks.

Improvement of Gallipolis is not a provincial matter. Traffic from at least 19 States passes through these locks carrying coal, steel, agricultural, and construction products and many other commodities. Reduced delays and transportation costs will benefit directly and indirectly the economy of the entire Nation.

Mr. President, this project has already received approval by both the House and Senate authorizing committees as well as the House and Senate Appropriations Committees.

Moreover, all preconstruction activity on the Gallipolis project has been completed. As I noted earlier, work on the project has come to a complete halt pending enactment of further authorizing legislation by Congress. A years delay in this project, which would be likely if action is not taken today, would result in an equal period of delay in the stream of benefits that would accrue from improvements proposed by the Corps of Engineers. Currently, it is estimated that the first year benefits attributable to this project will amount to approximately $98 million in 1983 constant dollars according to testimony provided by Assistant Secretary of the Army William R. Gianelli and his staff during a February 9, 1984, appropriation hearing. This amendment is being offered today in order to save these benefits.

Let me stress that I am not talking about savings due to the higher construction costs that would occur if this facility were built next year or the year thereafter with inflated dollars. I am talking about $98 million in reduced transportation costs to operators of river barges and other vessels—$98 million in first year benefits alone that can be passed on to consumers of steel, coal, and other commodities. Furthermore, these benefits translate into less expensive prices for commodities which are, in turn, more competitive in world markets. So, improvement of the locks and dams at Gallipolis translates to more jobs for Americans; and, conversely, as long as we continue to do nothing to modernize the antiquated locks, we will be voting to offer less jobs for Americans.

I wish to make one more point, Mr. President. In addition to the costs of congestion caused by the present situation at Gallipolis, we should also be aware of the fact that the existing locks are very hazardous because of their location on a bend in the river. It is extremely difficult for river tows of six and more barges to negotiate the tricky maneuvers required to lock through the Gallipolis facility. In a recent year, the Huntington District of the Corps of Engineers found that the accident rate at Gallipolis was six times as high as that of any modernized facility on the Ohio River.

In summary, Mr. President, there is no doubt that this project is vitally needed in order to alleviate the bottleneck to water borne traffic on the Ohio River. The benefits of completing this project now are compelling, I believe. The cost of not proceeding with this project would be condemning. So, I urge my colleagues to support this amendment to authorize construction of these two projects so that work may resume immediately.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the distinguished senior Senator from West Virginia (Mr. JENNINGS RANDOLPH) who has for many years been identified with the leadership on this project, be added as an original cosponsor of this amendment.

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

BONNEVILLE LOCK AMENDMENT

● Mr. PACKWOOD. Mr. President, I am delighted to join as a cosponsor of the amendment offered by my colleague, Senator HATFIELD, to authorize funds for the completion of the new lock at Bonneville Dam on the Columbia River between Oregon and Washington.

The construction of this lock is long overdue. The existing lock is too small and too heavily used. In fact, the lock at Bonneville Dam is the smallest and the most trafficked lock on the entire Columbia/Snake River System.

A new lock at Bonneville would significantly improve both the volume of barge traffic and the safety to the barges and their operators. The current lock is estimated by the U.S. Corps of Engineers to have less than half of the maximum annual commercial shipping capacity of upsteam locks. As exports to Pacific rim countries become increasingly important to Oregon and other Northwestern States, it is imperative that the present lock be replaced.

The time is now to move forward with the replacement of the Bonneville lock. Delaying its construction will only result in continued problems for those currently using the lock and increased cost for its replacement in the future.●

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATFIELD. I yield back my time.

Mr. BYRD. I yield back the time on this side, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2897) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, will the minority leader yield me 5 minutes on the bill?

Mr. BYRD. Yes, Mr. President, I yield to the distinguished Senator from Massachusetts such time as he may need from the bill.

Mr. KENNEDY. Mr. President, I thank the minority leader.

I intend to vote against final passage of this legislation, Mr. President. In a few hours, the Senate will cast one of the most fateful votes we will face this year and perhaps in this decade. I fear that we are taking a dangerous step down the road to war in Central America.

The Senate has refused to condition aid to El Salvador on justice for the victims of the death squads.

The Senate has refused to condition even a portion of the aid for El Salvador on a full and fair investigation and prosecution of those responsible for the four murdered churchwomen and the two murdered labor advisers.

The Senate has refused to condition aid on the willingness of the Salvadoran Government to negotiate a peaceful settlement in that country.

The Senate has refused to place any restrictions on the increasing militarization of Honduras which comes from the continuing presence of American military forces in that country.

The Senate has refused even the most simple and fundamental step of requiring congressional consent before our combat troops can be ordered into the conflict in Central America.

And the Senate has refused, incredibly, to ban the use of American covert military aid in Nicaragua for acts of terrorism and sabotage. I say to many of my colleagues here: How can you denounce terrorism in other parts of the world, by other countries and other groups, when you are apparently willing to have the CIA finance it with American dollars in our own hemisphere?

In my 22 years in the Senate, I have never seen a more shameful and more dangerous piece of legislation than the one we are apparently about to enact. Too many Republicans in this Chamber seem too ready to rubberstamp the President's policy. Too many Democrats seem to fearful to take a stand. Too many Senators protest that they are not really voting for war; but the world is watching, and the world knows the truth. And so the Senate has voted for wider war in El Salvador, secret war in Nicaragua, the brink of war in Honduras, terrorism sponsored by the United States, and the denial of justice for the victims of the death squads.

How can we explain these votes to our consciences, let alone to our constituents?

I predict that some month or some year, and I hope it will be sooner rather than later, the Senate will return to this issue and make a different decision. I only hope that happens before more innocent lives are lost; more millions of dollars are misspent; and, most of all, before our sons are sent again to fight and die in an unwinnable war, with unworthy tactics, for an untenable cause.

So one last time during debate on this measure, I ask my colleagues: Stop and think before rushing to approve this course. Nothing will be gained by scorning real negotiations with Nicaragua. Nothing will be lost by giving peace a chance in Central America, by giving democracy a chance in El Salvador before giving El Salvador unconditional military aid. Why do we want to guarantee guns and bombs to that nation even if a brutal and murderous regime comes to power there? And above all else, nothing will be lost by seeking peace.

I thank the Chair.

MODIFICATION TO AMENDMENT NO. 2864

Mr. HATFIELD. Mr. President, I have a technical amendment that has been cleared on both sides.

I ask unanimous consent that amendment No. 2864, which was agreed to earlier, be corrected. I send to the desk this technical correction. It is purely a technical amendment to reflect action taken by Congress on the target price bill recently passed. It gives direction to the Department of Agriculture on export credit activities.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The modification is as follows:

Subsection (b)(1) is amended to read as follows:

"(1) the $4,000,000,000 of guarantee authority available for the fiscal year ending September 30, 1984, and".

AMENDMENT NO. 2898

(Purpose: To temporarily bar the National Park Service from implementing the Office of Management and Budget Circular A-76 relating to contracting out)

Mr. BAUCUS. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an amendment numbered 2898.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the resolution insert the following:

SEC. . (a) Notwithstanding any other provision of law, the National Park Service shall enter into a contract releasing or transferring any Federal employees or liquidating any equipment or materials for the purpose of complying with the Office of Management and Budget Circular A-76 as it relates to the sixty-two activities tentatively scheduled for review by the National Park Service by March 30, 1984, only after the following conditions have been met:

(1) the study supporting that contract required by the Office of Management and Budget Circular A-76 is completed, including the bidding process and review of bids;

(2) the National Park Service has had 30 days to review the bid results and to transmit recommendations to the House and Senate Committees on Appropriations, the Senate Committee on Energy and Natural Resources, and the House Committee on Interior and Insular Affairs as to which activities should be contracted; and

(3) 30 days have elapsed since the transmittal required by (?).

(b) All recommendations to be submitted shall be submitted by September 1, 1984.

(c) The National Park Service shall not solicit bids related to other Circular A-76 reviews before January 1, 1985.

Mr. BAUCUS. Mr. President, the National Park Service is preparing to contract with private companies to perform important functions in 62 national parks, in accordance with Office of Management and Budget Circular A-76.

The Park Service already contracts with private companies for many services and functions in our park system. It is clear, however, that the Park Service is proceeding with these new proposed contracts without adequate study.

This amendment will simply delay this contracting-out so we can be sure that appropriate studies are conducted.

THE PROBLEM

For nearly 2 years, the Interior Department, like all Federal offices, has been working toward implementing the newly-revised guidelines of Office of Management and Budget Circular A-76. The Interior Department has adopted an accelerated schedule for its implementation, and is forcing the Park Service to meet this accelerated plan.

Assorted functions and activities in 62 national parks are now being reviewed. Some activities, like copier service or trash pickup, are fairly easy to evaluate for contracting-out. But others, like maintenance for roads, trails, and utilities, are directly related to the Park Service mission of protecting the parks and providing safe access for visitors, and require more careful study.

The original deadline for seeking bids, March 31, has passed, but the Park Service is still under pressure to complete these reviews quickly.

With the unrealistic deadlines that are being set, I am concerned that important decisions about the management of fragile natural resources are being made in haste and without proper study and evaluation. Park Service employees have expressed to me their concerns and reservations about this situation. The Director of the Park Service has expressed his reservations about this, but to no avail.

Proper and careful management of the natural and cultural resources of the national park system, and the quality experience and safety of park visitors are in jeopardy.

GLACIER PARK

A case in point is Glacier National Park, in Montana, where the Park Service is preparing to contract out for road maintenance.

Glacier's roads are among the most difficult to manage and maintain in the Nation. Major snowfalls occur all year round, and visitor use is heavy. In addition to heavy equipment, this work requires a large, well-trained crew.

Good road maintenance is critical both to protecting the fragile beauty of Glacier Park and to protecting the safety of park visitors. Clearly, any change in the management of this important work should be done only after careful study and consideration.

Yet, the superintendent of Glacier Park has been instructed to let contracts for bid after only 5 months notice, apparently regardless of whether a comprehensive study has been done.

The need for careful study is apparent from the history of contracting-out experiments in Glacier National Park.

During the seventies the Park Service contracted out for back-country trail maintenance. The contractor assumed responsibility for opening up the trails in the spring. After about 8 years, the experiment was discontinued and the work turned over to regular Park Service employees.

So many professional park employees were required to monitor the work done by employees of the contractor that it became necessary to return to having permanent staff do the work. I am told that the trails in Glacier have only recently recovered from those years of improper care.

PRUDENT CONTRACTING OUT

Mr. President, this amendment is not designed to prevent additional contracting-out of some activities by the Park Service. Indeed, it is important to note that the Park Service already contracts with private industry for many functions and services, especially nonmission related services such as operating concession stands for park visitors.

Out of a $600 million budget, the Park Service now contracts out about $100 million worth of work. I agree that it is probably reasonable to expect that a larger portion of the Service's work could be contracted out.

But I think our experience in Glacier demonstrates that we should be careful. The Park Service has a heavy responsibility, to protect the public lands set aside for national parks, to protect those who visit the parks, and to make it possible for the public to enjoy their visits to their parks. The Park Service does an excellent job of fulfilling those responsibilities.

While we look for more cost-effective ways of using scarce Federal dollars, we should rely on the expertise of Park Service professionals. This amendment, by providing more time for studies to be completed and by requiring that those studies be submitted for congressional review before contracts are issued, will help insure that we proceed prudently.

DEPARTMENT POLICY

Careful study of these 62 proposals is particularly important because of the precedent that will be set. The Assistant Secretary for Fish and Wildlife and Parks has stated in an internal memo that if the review of activities in one functional category results in a decision to convert to contract in 50 percent or more of the cases, then all such activities in that functional category will be converted to contract without an A-76 review.

In other words, if contracts are let for activities in these 62 parks currently under review, those activities may be contracted out systemwide without further review. I am concerned about this plan; what may be appropriate and cost-effective at Gulf Islands National Seashore in Florida may not work in Yellowstone Park in Montana and Wyoming.

If this is indeed the way the Department intends to proceed, however, then it is all the more important that these first reviews be done carefully and openly.

ADDITIONAL CONCERNS

Mr. President, I have additional concerns and questions about the implementation of A-76. I raised some of these in a recent letter to Secretary Clark, which I will enter in the RECORD at the conclusion of my remarks.

One important consideration that is apparently being ignored is the need for the Park Service to have core capability to perform essential services. In the case of a sudden natural disaster, such as a flood, snowstorm, avalanche, or rockslide. I believe a park superintendent needs to have the ability to move quickly with experienced personnel. It is possible that contracting out of road maintenance and other essential services can permit that flexibility and speedy response. But I expect the Interior Department to consider this problem specifically when evaluating activities for contracting out.

As issued by the Office of Management and Budget, Circular A-76 specifically exempts functions that are governmental in nature from review. The guidelines define a Government function, which is to be exempted from contracting out, in the following way:

A Governmental function is a function which is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities which require either the exercise of discretion in applying Government authority or the use of value judgment in making decisions for the Government. Services or products in support of Governmental functions, such as those listed in Attachment A, are commercial activities and are normally subject to this Circular. Governmental functions normally fall into two categories:

(1) The act of governing, i.e., the discretionary exercise of Government authority. Examples include . . . judicial functions; management of Government programs requiring value judgments, as in direction of the the national defense; . . . regulation of the use of space, ocean, navigable rivers and other natural resources; . . .

(2) Monetary transactions and entitlements.

It is clear to me that the Park Service is fundamentally responsible for regulating the use of Federal natural resources. Activities central to that work, according to the criteria established by OMB, should be exempt from A-76 review.

The General Accounting Office is currently conducting a study of contracting-out by agencies that manage our natural resources, and I have asked that the study specifically consider the Park Service and Glacier National Park. We should have that study to review sometime next fall, before the Interior Department expands this implementation effort further.

In addition, I believe that road maintenance in Glacier Park requires a great deal of value judgment on the part of workers. For one thing, the guardrails on "Going to the Sun Highway" are historic—they are on the list of national historic sites. It may not make sense to contract out that work, when the contractor's main goal, quite properly, will be profit instead of preservation.

Work such as clearing trails and roads, opening them up in the spring, requires value judgments as well. The easiest or quickest way might not be best for the long-term preservation of trees and wild animal habitats. While contracts can be written tightly to require care and monitoring, and to require financial penalties for nonperformance, we must remember that sometimes no amount of money can reverse environmental damage.

SUMMARY

I agree that we should do everything possible to manage our parks at the lowest possible cost. If contracting with private companies can help, we should consider it. But I do not think our parks exist to make a profit. And I do not think we should privatize them to the point where profit motives take precedence over protecting the fragile beauty of our parks and providing quality experiences for park visitors.

This amendment will make it possible for us to monitor this process, to make sure that the zeal for contracting out does not get out of hand and threaten the proud tradition of the National Park Service.

I ask unanimous consent that my letter to Secretary Clark be entered in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 15, 1984.

Mr. WILLIAM CLARK,
Secretary, Department of the Interior, Washington, D.C.

DEAR BILL: I am writing to you to express a growing concern I have over the direction the Park Service is taking to privatize services in our national parks. I am particularly concerned about the impact that this action will have on the quality of the visitor experience in Glacier National Park. I have expressed my reservations concerning the implementation of the A76 policy in previous correspondence with Russell Dickerson, Director, National Park Service.

Throughout the tenure of Mr. Watt as Secretary of the Department of Interior, I had a number of reservations concerning the management direction of the Department. Previously, I have spoken out on such matters as the management of the Federal Coal Lease Program, asset management and oil/gas leasing in wilderness areas.

When you were nominated to replace Mr. Watt, I continued to have serious reservations whether or not you would provide the needed stewardship our federal lands deserve. I have been encouraged by the willingness you have shown to address these questions in an open direct manner.

Applying A76 to our national parks is another example of a poorly conceived, poorly executed Department of Interior policy.

The implementation of the A76 policy in our national parks is a vestige of the Watt Administration. This policy needs to be reconsidered.

The private sector already plays a significant role in our national parks. The use of concessionaires to provide food and lodging to park visitors has proven to be successful. A unique balance has been developed over the years between the Park Service and the concessionaires. It has added to the quality of the visitor experience. I am not sure that further privitization of park functions will likewise heighten the visitor's experience.

Although the revised OMB-76 contracting directives have been in effect for nearly two years, the Park implementation policy has only been in effect since the end of last October. Forcing parks such as Glacier National Park to contract road and trail maintenance by the end of this month is unrealistic. Thorough review and investigation of a policy shift of this magnitude needs to be carefully instituted, prior to any decision being made. Forcing the parks to bypass this review process and focus its attention directly upon contract development is not in the best interest of the park.

The contracting of roads and trails maintenance would transfer over 50 percent of the current Glacier Park budget to the private sector. Concessionaires already exert considerable pressure in setting park policy. Park management would become largely custodial if this policy were instituted. I am concerned that park management could find itself increasingly impotent to deal with the legitimate function of protecting the park's resources and providing a high quality visitor experience.

The seasonal roads and trails maintenance employees in Glacier National Park serve a much broader function than simply maintenance. They provide a ready reserve to address fire and safety protection. They act as additional support to the permanent staff in providing visitor related information services. The entire operation of the park hinges on the opening of the Going-to-the-Sun Highway each spring. Spring snow storms as well as snow throughout the entire summer and fall when visitor use is heaviest are highly upredictable. Utilizing Park Service employees provides the flexibility necessary to insure a quick response to the uncertainty in management of Glacier National Park. It is imprudent management to risk providing the American visitor with anything but the highest quality experience.

My concern for the haste in adopting this policy is further exacerbated by the requirement that if the A76 review for any function indicates in more than 50 percent of the cases, that it would be more cost effective to contract, the Park Service will be required to contract out the service in all parks that utilize that function. Each park is a unique part of our natural and cultural heritage. Each park is unique. I am particularly disturbed that all units of the park system employing 10 FTE's or fewer would be required to contract out this function without a review regardless of whether or not it is cost effective.

Protecting the natural resources of our parks and providing a high quality visitor's experience needs to be a primary objective of the National Park Service. You have shown a willingness to reexamine policies of the Department instituted by Mr. Watt. You have expressed a concern for our national park system. I request that you directly investigate the policy regarding implementation of A76 in our national parks. The time devoted to making these decisions has not been adequate to provide the type of review necessary to justify a shift in management of this magnitude. I look forward to hearing from you regarding my concerns.

With best personal regards, I am

Sincerely yours,

MAX BAUCUS.

Mr. BUMPERS. Mr. President, I have strongly supported contracting for various functions in the national park system when contracting will result in work being done more efficiently, more quickly, or at less cost to the Government. Many, if not most, national parks already rely on private contractors for a number of activities, particularly large construction projects and other special jobs.

But the new application of OMB Circular A-76 to the national park system requiring nationwide reviews of additional activities that could be contracted out has the potential to undermine, rather than enhance, the management of the national parks and the protection of park resources.

Despite the objections raised by many Park Service professionals, the Park Service has been forced to review nearly all functions within selected parks to determine whether they should be performed by Park Service employees or by private contractors. These functions include routine maintenance of roads, utilities, trails, and buildings. In some cases, contracts may even be signed before the studies evaluating the feasibility of contracting for a particular job have been completed.

Perhaps the most egregious aspect of the new initiative is that contracting may no longer be based on a park-by-park analysis of the costs and benefits of taking bids for a particular project. Under the directives, if studies in a sample of parks show that contracting for a specific activity would be more cost effective in more than 50 percent of the parks sampled, then bids would have to be taken for that activity in every national park, even if contracting would be more expensive in some cases.

Mr. President, I would encourage the Park Service or any other Federal agency to examine its activities closely to identify ways to improve management and reduce costs. But I have serious concerns about the implications of more extensive contracting in the national park system.

National park superintendents have the difficult responsibility of both protecting park resources and insuring that park visitors have safe and enjoyable experiences. Fulfilling that responsibility frequently requires a level of staff experience and loyalty to the park that is common in Park Service employees, but that could not be expected of private contractors hired to complete narrowly defined jobs.

I am also concerned that requiring park superintendents to take bids for small jobs such as vehicle maintenance, custodial services, painting, and others will severely limit their flexibility to move personnel around among different, pressing projects. The following quote from the team assigned to evaluate projects at Acadia National Park aptly sums up the problem:

> The A-76 guidelines . . . do not appreciate the situation faced by many areas of the National Park System. They assume that an activity is fully funded, the work is separable and predictable and all standards are being met. . . . The same small group of (park employees) are responsible for roads, trails, grounds, assistance on buildings and utilities and even new construction. They are also expected to perform emergency services . . . including search and rescue and fire suppression. Only an inhouse staff provides the flexibility to meet the planned as well as unplanned critical needs of a variety of unrelated functions. . . . The work can only be performed inhouse unless the Government is willing to significantly increase the Park's budget to enable (it) to operate on a proactive rather than reactive basis.

Mr. President, the amendment I am offering with Senator BAUCUS is intended to insure that the sweeping contracting program being considered by the National Park Service is implemented only after carefully prepared studies show that contracting for a particular activity within a particular park will indeed save money without endangering the park. The amendment simply provides that no new contracts may be signed which would result in the release of transfer of Park Service employees, or the disposal of Park Service equipment, until after the study supporting that contract has been completed and submitted to Congress for review. All recommendations for the first 62 studies originally scheduled for completion by March 31 must be submitted to Congress no later then September 1.

The amendment represents a reasonable approach to insuring that new contracts are fully justified. I urge its adoption by the Senate.

Mr. SASSER. Mr. President, I rise in support of the Baucus-Bumpers amendment pertaining to National Park Service contracting out. I am concerned that the application of A-76 regulations to the National Park Service is a short-sighted approach to achieving efficiency in the management of park services. Application of these regulations may adversely affect the long-term management of some of our Nation's important natural resources and result in the displacement of many valuable and dedicated Park Service employees.

It is estimated that as many as 100 Great Smoky Mountains Park Service employees may be displaced by the proposed contracting out program for the National Park Service. Many of these workers perform valuable main-

tenance functions as the Great Smoky Mountains National Park.

Mr. President, the affected Park Service employees have provided excellent maintenance services over the years. I believe that the superior maintenance of campgrounds, picnic areas, and roads throughout the park attests the high quality of service provided by these employees.

Mr. President, I believe that it is imperative that the individuals responsible for the preservation of our Nation's critical natural resources have a deep personal commitment to the proper management of our park resources. The people who work in the Great Smoky Mountains National Park also call the Smokies their home. They provide a special quality of care in maintaining the Smokies which is one of our most important national parks. In this instance, I believe that contracting out of park services would reduce the quality of maintenance service in the Smokies.

Mr. President, I support and urge adoption of the Baucus-Bumpers amendment.

Mr. BAUCUS. It is my understanding, Mr. President, that the Senator from Idaho (Mr. McCLURE) and the Senator from West Virginia (Mr. BYRD) have looked at this amendment and it is agreeable to them. At this time I yield the floor.

Mr. McCLURE. Mr. President, as chairman of the authorizing committee and also chairman of the Interior Related Agencies Subcommittee of the Appropriations Committee, we have looked at this process. We have had hearings with respect to the process with the Park Service. As the distinguished Senator from Montana has indicated, we have worked with him to draft this language. I think it does accomplish both his objectives and mine. I have no objection to the amendment and urge its adoption.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BAUCUS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 2898) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2899

Mr. MATSUNAGA. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes an amendment numbered 2899.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

In developing nations, the establishment of physical infrastructure in rural areas requires the discrete application of engineering and construction skills, equipment and training;

In 1961, a farsighted group of Navy Civil Engineer Corps officers, otherwise known as Seabees, conceived of forming tightly-configured mobile units to provide engineering and construction services and training in developing nations;

The abovementioned concept was implemented by the Navy with the establishment of 13-man Seabee Teams, elite units of unprecedented mobility and versatility, whose unique cross-rated training enabled each team to provide a minimum of 35 technical skills keyed to rural needs in developing nations, and to train local inhabitants to apply those skills as well;

Seabee Teams served with distinction in Africa and Latin America, in such nations as Upper Volta, Ecuador, the Central African Republic, Haiti, Liberia;

Seabee Teams in Africa and Latin America were subsequently diverted to Indochina in support of the counterinsurgency effort there, and the programs in Africa and Latin america were allowed to lapse;

The need for rural infrastructure development aid in Africa has grown acute and United States civilian aid agencies cannot match the unique capabilities of United States military construction and engineering field units, as exemplified by Seabee Teams, for meeting that need: Now, therefore, it is the sense of the Congress that—

(1) the Seabee Team program for Africa be reactivated by the United States Navy in strict accordance with its original nation-building mission, as applied in Africa in the early 1960s, and in association with the Department of State as before;

(2) as a first step, no more than five and no less than three Seabee Teams be dispatched to African nations, requiring rural infrastructure development assistance, which, upon being advised of the availability of such teams, formally request their services;

(3) the Secretary of the Navy, in association with the Secretaries of the Army and Air Force, report to the Senate at the earliest possible date, but no later than November 1, 1984, on steps taken to implement the abovementioned Seabee Team program in Africa, with an estimate of the cost of such program on an annual basis.

Mr. MATSUNAGA. Mr. President, my amendment to House Joint Resolution 492, the 1984 urgent supplemental appropriation for the Public Law 480 program, expresses the sense of the Congress that Seabee teams be offered to African nations as one means of improving socioeconomic conditions in that region, especially in the areas of transport and logistics where assistance is desperately needed if food supplies are to reach the victims of the worst drought in Africa's history.

In light of current efforts to define clearcut, attainable and useful missions for the military in the developing world, these words from an official U.S. Navy historical document may be of interest:

Soon after his inauguration in 1961, President John F. Kennedy expressed his concern about the United States lack of a military force to counter the so-called brushfires or "Wars of National Liberation." During the time this (special) force was under development by the Army, a few Navy Civil Engineer Corps officers at what was then the Bureau of Yards and Docks in Washington, D.C., reasoned one step beyond: Why should we fight these wars if they can be prevented? These officers realized that, in newly developing nations, it is the hopes and aspirations of the common man for himself and his children which, when stifled by the socioeconomic conditions under which he must live, breed the despair and anger which in turn develop into an insurgent uprising. Continuing their thoughts still further, the officers asked themselves: Why not a team of Seabees equipped to provide both engineering and construction services assistance while at the same time training the local populace in the construction trades, thereby alleviating these adverse economic conditions? The Seabee team concept was born.

What happened next is instructive. In effect, two divergent, almost antithetical Seabee team concepts took shape. One of them involved the dispatch of elite 13-man teams of unprecedented mobility and versatility to Latin America, Africa and the Caribbean, where they proved to be an unequivocal success in nations such as Liberia, Haiti, Ecuador, the Central African Republic, and the Dominican Republic. With unique cross-rating training enabling each team to provide a minimum of 35 technical skills, they built roads, water catchment systems, wells, bridges—just about everything in the way of physical infrastructure that a developing nation required—training local inhabitants as they went along. Their military fatigues bothered no one. For instead of M16's and grenade launchers, they were armed with welding tools, hammers, socket wrenches, concrete mixers, graders, and other light construction gear.

Unfortunately, that working concept, so in tune with the original preinsurgency mission of the Seabee teams, was swallowed up by another: By the mid-1960's, all Seabee teams operating in Latin America, Africa and the Caribbean had been diverted to the war in Indochina. Thus, a program designed to fight the socioeconomic conditions that triggered brushfire wars had become but another weapon in a brushfire war that was fanning out of control. And so, the Seabee teams joined the ranks of dozens of pacification programs that faded from awareness when we left Indochina—their prewar achievements and extraordinary potential forgotten.

Fortunately, there remained a group of stubborn-minded Navy civil engineers, who clung to the concept in the Pacific territories. There the Seabee teams were reborn as CAT's-civic action teams. CAT's performed with unparalled effectiveness throughout Micronesia, so much so that the Army and Air Force mobilized teams on the Seabee model for similar rural infrastructure development aid missions on remote Pacific islands, directed by the United States Pacific Command (CINCPAC) in association with host governments and U.S. Trust Territory officials. They are still going strong.

The next step, as proposed in my amendment, would be to restore the Seabee teams to their original noncounterinsurgency role elsewhere in the developing world, beginning with Africa. That means excluding, for the time being, Central America and other locations where insurgencies are in progress. Instead, my amendment calls for deploying three to five Seabee teams, on a test basis, in appropriate African nations that request them.

Rural infrastructure development aid is the weakest aspect of our foreign assistance program in Africa, despite a growing need for it. Seabee teams would combat the host of worsening rural infrastructure problems besetting African nations that civilian agencies simply are not equipped to handle, with the effectiveness of military units on the Seabee team model. At a time when they are needed more than ever, Seabee teams are simply too good an idea to pass up—again. Surely, at the minimum, this is worth testing on a limited, controlled basis. I urge the adoption of my amendment.

I understand that the manager of the bill is familiar with this amendment and is willing to accept it.

Mr. HATFIELD. Mr. President, the Senator from Hawaii is correct. This matter has been checked with the subcommittee chairman and the ranking minority member. It is a sense-of-Congress resolution and has a worthy purpose, and we are willing to accept it.

Mr. MATSUNAGA. I thank the Senator from Oregon.

Mr. STENNIS. Mr. President, I support the amendment.

Mr. MATSUNAGA. I thank the Senator from Mississippi.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment.

The amendment (No. 2899) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I believe we have one more amendment, by the Senator from Montana (Mr. MELCHER), and then we will be finished with the amendments on this bill and will be ready to go to third reading, with one exception, and that is a statement that the Senator from Florida (Mr. CHILES) wishes to offer in lieu of an amendment. Senator CHILES has been notified that we are reaching the point at which we are awaiting his statement. I note that he is now in the Chamber.

Mr. President, I yield the floor to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2900

Mr. MELCHER. Mr. President, I send an amendment to the desk, and I ask unanimous consent that it be considered.

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

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an amendment numbered 2900.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the joint, resolution, insert the following:

Since large numbers of refugees from Guatemala have fled their homes in search of personal safety; and,

Since, the government of Mexico maintains facilities in the state of Chiapas to care for the housing, food and medical care of up to 100,000 refugees from Guatemala; and,

Since, while there has been cooperation by international organizations to help meet the needs of these refugees in Chiapas, the government of Mexico meets most of the costs of this effort;

Therefore, it is the sense of the Congress, that in cooperation with the government of Mexico, the newly enacted authority under Section 416 of the Agricultural Act dealing with U.S. surplus wheat and dairy products shall be used on an expedited basis to make these commodities available to help feed the Guatemalan refugees in Mexico.

Mr. MELCHER. Mr. President, this is a sense-of-Congress resolution which I believe will be cleared on both sides.

It points out that there are a large number of refugees from Guatemala who have fled their homes there in search of personal safety and have gone across their border into Mexico, into the State of Chiapas, where there are refugee camps for these Guatemalans which have been set up by the Government of Mexico. Up to 100,000 refugees are housed and given food and medical needs at those refugee camps.

During the past February recess, I was in Mexico City, and, through the courtesy of the Mexican Government, I was flown over to the refugee camps in a helicopter to view the type of terrain and the type of structures for shelters and the type of operation of a typical refugee camp.

It is a very marvelous act on the part of Mexico to provide these camps for these refugees. They are receiving money from the United Nations, the Refugee Fund, and we contribute to that fund. However, I am suggesting in this amendment, which is a sense-of-Congress resolution, that we cooperate with the Government of Mexico, if they so desire, to make available under section 416 of the Agricultural Act, which we recently amended, surplus wheat and dairy products that are covered under that act, and, on an expedited basis, to make those commodities available to help out in feeding the Guatemalan refugees in Mexico.

I think it is appropriate to add this sense-of-Congress resolution to this bill. We have spent several days debating the issues of El Salvador and Nicaragua and the whole aspect of peace and progress in Central America. I feel that the generous work of the Government of Mexico in caring for these Guatemalan refugees is a very fine act on their part, and I suggest, through this sense-of-Congress resolution, that we cooperate with them by providing some of the surplus food commodities that we have, in caring for their food needs.

Mr. HATFIELD. Mr. President, I commend the Senator from Montana for his amendment. As he indicated, there are a significant number of refugees—I believe the figure is 40,000—in this border area. The interesting thing is that it is in an area of low economic status within Mexico, so it is not as if they had an alternative within their environment.

This is truly a humanitarian mission that the Senator wishes to bring focus to, and I commend him for it. As the manager of the bill, I am very happy to accept the amendment. It has been cleared on both sides.

Mr. MELCHER. I thank the chairman.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2900) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GLENN. Mr. President, I would like to take just a moment to explain my vote on final passage of House Joint Resolution 492, the urgent supplemental bill. I fully support emergency food aid to Africa. I voted for the Cochran amendment to increase such aid by $60 million.

I support the supplemental funding for WIC and child nutrition programs. I cosponsored the Dixon amendment providing $100 million for summer youth employment.

I would have much preferred that these items be considered separate and distinct from the controversial Central America supplemental. I am also prepared to support the reduced level of additional military aid for El Salvador. However, I do not support unconditioned aid to El Salvador nor the aid to the Nicaraguan Contras.

When we began debate on this measure, I decided to support all amendments attaching reasonable, and I believe necessary, conditions on the Salvadoran military aid. If the aid could be so conditioned I would support it at the reduced level.

Unfortunately, the Senate has decided to provide the additional $62 million in military aid for all intents and purposes unconditionally. It has also decided to continue to fund the Nicaraguan Contras. Thus I am forced to vote against the bill as a whole, despite my strong support for the worthy programs already mentioned.

LAKESHORE ROAD

Mr. LEVIN. Mr. President, Lakeshore Road in Manistee County, Mich., is in a precarious position. It is perched on a 35-foot high bluff which slopes dramatically into Lake Michigan. The bluff has been eroded by severe wave action to the point where the road's guardrail is 12-feet away from the edge of the bluff. Further wave action this summer or a severe storm this fall could cause the road to collapse.

Such an occurrence would work a hardship on this rural county in Michigan. Lakeshore Road presently provides access to employment and community services in the city of Manistee. Six of the ten largest employers in the county are located in the city. Loss of the road would result in a detour for 18 months while construction of an alternative route is undertaken.

The U.S. Army Corps of Engineers has investigated the likelihood of the road's collapse and found that protection of this public facility is warranted. On October 14, 1983, the Office Chief of Engineers approved a plan for the placement of 300 feet of stone revetment along the section of the eroded bluff supporting Lakeshore Road. The corps determined that the approved plan has a benefit/cost ratio of 1.49 to 1, and a total Federal cost of less than $250,000.

Because of the potential loss of Lakeshore Road this year, I feel strongly that funding for construction of the revetment is needed this year. For that reason, I proposed to offer an amendment insuring that $250,000 would be available for construction.

It is my understanding from discussions with officials of the corps, however, that funding could be made available from the section 14 account this year, provided necessary documentation from the Detroit District is completed. I have spoken with the Detroit District about the importance of having the documentation completed prior to the end of the fiscal year.

While I was pleased to learn that funding could be made available, there is no assurance that funding will be provided, even if the Detroit District completes the necessary documentation before the end of the year. As a result, I am reluctant to withdraw my amendment.

However, I would like to ask the chairman and ranking member of the Appropriation's Subcommittee on Energy and Water Development whether they would join with me in writing the Chief of Engineers to request an allocation from the section 14 account this year for construction of the revetment? Of course, this funding would be contingent upon the Detroit District completing its documentation prior to the end of the fiscal year.

Mr. HATFIELD. The Senator from Michigan has identified a project to which there is some urgency attached, and I can understand his interest in seeing funding provided this year for construction of the revetment to protect Lakeshore Road. Prior to last fiscal year, the existing backlog of approved section 14 projects would have ordinarily delayed construction of such a project for about a year. However, in the jobs bill, approximately $8 million was provided for the purpose of moving these projects to construction. As a result, the $4 million provided in the fiscal year 1984 energy and water appropriations bill should prove adequate to fund most of the section 14 projects which have been recently approved and which have the necessary documentation for construction.

I would be happy to join with the Senator from Michigan in seeking an allocation from the section 14 account for this project.

Mr. JOHNSTON. As the chairman of the Subcommittee on Energy and Water Development has already noted, there should be adequate funding for a good number of section 14 projects this fiscal year. Because of the importance attached to this project by the Senator from Michigan, I would be happy to join with him in requesting the funding.

Mr. LEVIN. Mr. President, I thank my friends and withdraw my amendment.

Mr. HEINZ. Mr. President, the results of elections held in El Salvador on Sunday, March 25, 1984, are an encouraging sign that a nation torn by internal strife may be turning the corner on the long road to peace. Though none of the candidates received the necessary number of votes to preclude a runoff, a plurality of Salvadorans did cast their ballots for a candidate, Jose Napoleon Duarte who has promised to emphasize negotiations with his adversaries and end the violence of right wing death squads.

The elections are only a first step in the search for peace. They indicate that Salvadorans, despite attempts by leftist insurgents in various parts of the country to intimidate them, believe that their vote was a vote for the future of their nation.

The question before the Senate today does not just address the narrow questions of whether or not to approve additional funds for military assistance to El Salvador, but rather how to lay the foundation for a U.S. policy which can bring about a peaceful solution not only in El Salvador but throughout Central America.

The primary emphasis of our policy cannot be a military solution to the conflict in El Salvador. While training the Armed Forces to function effectively in a democratically elected government is important, military assistance can only be viewed as complementary to diplomacy and not as an end in itself.

We must focus our efforts on increasing the credibility and legitimacy of the Contadora process. There are many serious issues—numbers of foreign military advisers, flow of weapons into the region, social and economic aspects of the crisis—which can be ironed out by the nations of the region themselves. There is nothing easy about negotiations; They will require patience and real commitment. The United States must now state its unequivocal commitment to negotiations among all parties in the region. The signals we send can no longer be mixed. Those who seek peace will become as well known as those who refuse to come to the table. We must not delude ourselves into believing that military assistance is the bargaining chip which will drive all of our adversaries to the bargaining table.

We are presented today with an emergency request for military assistance. I will support the compromise crafted by my distinguished colleague Senator INOUYE and the distinguished majority leader, Senator BAKER, because I believe the electoral results in El Salvador justify the flexibility that some additional military assistance will provide during the period of the election runoff.

Originally, the administration had requested $178 million in additional

military assistance. The request was then revised to $92 million. The compromise before us today, contains $48.0 million in military assistance and $13.5 million in emergency medical assistance. The need for medical assistance is most acute. The $13.5 million will buy an additional 4 Medevac helicopters and 44 ambulances. By providing additional emergency medical assistance, we are not condoning the violence but rather are attempting to ease the pain and suffering it creates.

The additional $48 million in military assistance will provide the Government of El Salvador the ability to carry on military operations at the current rate of operations through the end of the fiscal year. We are not providing funds with which to escalate the conflict. Rather, with the hopeful outcome of the first round of elections, just enough aid is being provided to preserve the integrity of the electoral process and allow the newly elected government to deny the extremes on the right and left the ability to intimidate the people of El Salvador.

I am under no illusions that the leftist insurgents will lay down their arms and allow the people of El Salvador to work their collective will. Similar I recognize that extremists on the right would like nothing better than to undermine the electoral process and maintain the status quo—the reign of terror over which they have presided for many years.

Our goal must be to isolate and remove extremes of the left and right from the prominent roles they have occupied. My vote today is a vote of hope. A hope that the forces of moderation can buy some time to preserve the integrity of the electoral process, to begin serious negotiations with adversaries who wish to do the same in good faith, to purge the military of its extremist elements, and to end once and for all the largest impediment to democracy in El Salvador—the atrocities of the right wing death squads.

Mr. President, let me tell you what my vote today does not mean.

It does not mean that this Senator will approve additional funds in military assistance unless whoever is elected to rule El Salvador makes more progress in implementing basic human rights, political and economic reforms.

Should the Senate approve an additional $61.75 million in military assistance, this body will have approved nearly $126.5 million in military assistance for El Salvador for fiscal year 1984. This falls far short of the administration's request of $243.5 million for fiscal year 1984—$117 million short to be specific. This Senator will not vote automatically in favor of another run on the bank, when the Senate inevitably considers another supplemental request.

Unless the Government of El Salvador understands that U.S. military and economic assistance can and will be cut off if progress is not made in implementing human rights, political, economic, and social reforms, there is no hope that the leftist insurgents can be defeated. Unless the people of El Salvador believe that there indeed is something worth voting for, living for, and fighting for, no amount of military and economic assistance will make an ounce of difference.

Mr. President, let me take a few minutes to address the larger issues of policy here. In my view, Congress can no longer sit on the sidelines as larger and larger aid requests are considered for El Salvador. We must take responsibility for generating independent information on events in El Salvador and we must make reasoned judgments based on that information. We must be held accountable for the policy we create by having to approve, by joint resolution, future aid requests to El Salvador on the basis of progress which has been made in fundamental areas of political, judicial, economic, and miltary reforms. There is nothing onerous about our expectations. It is the direction in which the people of El Salvador themselves want to proceed. The sooner we stop condoning the excesses of the past and begin tying our aid to realistic expectations of what the future should be, the sooner the people of El Salvador will be able to realize the peace they cherish so desperately.

On his recent trip to El Salvador, Vice President BUSH stated:

> For a government to survive a guerrilla challenge it must continue to protect its citizens even as it fights to defend itself from those who play by other rules or no rules at all. As it does, it must continue to respect the rule of law and the rights of the individual. And it must honor basic human decencies. If it does not, it will lose the crucial battle for the support and approval of the people. These right wing fanatics are the best friends the Soviets, the Cubans, the Sandinista Commandantes and the Salvadoran Guerrillas have.

The Kissinger Commission has stated:

> The commission believes that vigorous, concurrent policies on both the military and human rights fronts are needed to break out of the demoralizing cycle of deterioration on the one hand and abuses on the other. We believe that policies of increased aid and increased pressure to safeguard human rights would improve both security and justice. A slackening on one front would undermine our objective on the other, El Salvador must succeed on both or it will not succeed on either.

Mr. President, the message has been delivered loud and clear but too many of us it seems to have fallen on deaf ears.

Over the weekend we learned that Capt. Eduardo Avila, prominently linked to the murder of American labor advisers Michael Hammer and Mark Pearlman has been released from custody. Both Avila and Isidrio Lopez Sibrian were responsible for providing the weapons to the two Salvadoran national guardsmen who stand accused of the murders. Though the two guardsmen have confessed to the murders, under Salvadoran law, their testimony cannot be used against other suspects. It is well known that Captain Avila failed a polygraph test after the killings and has been implicated in testimony received by United States and Salvadoran officials. Yet despite our protests, and despite the fact that Vice President BUSH identified Avila as one who must be brought to justice, he is allowed to roam free. Lieutenant Sibrian remains on active duty in Chaltenango Province. The Salvadoran military continues to operate outside the law and tolerate human rights abuses which have undermined the fabric of Salvadoran society.

Mr. President, the Salvadoran Government could avail itself of nearly $20 million in military assistance today simply by returning a verdict against the five Salvadoran national guardsmen accused of murdering four U.S. churchwomen in 1980. Nearly 4 years have passed since this violent tragedy, and yet the families of the four women suffer the anguish of knowing that those responsible for planning and performing the murder of their loved ones remain outside the rule of law.

That is why I will support the amendment of my distinguished colleague Senator SPECTER, which will withhold 30 percent of the $61.75 million—fully $18.5 million—until a verdict has been returned. In restricting nearly $20 million in funds last year it was our hope that the Salvadoran Government would take prompt action. Unfortunately, no final action has yet been taken. We cannot reward the failure of the Salvadoran judicial system to observe what every American would agree are minimal standards of due process by allowing even this significantly reduced aid request to flow to the Government of El Salvador without restrictions.

Mr. President, in voting to provide additional military assistance to the Government of El Salvador, many Senators will be taking a risk. We will risk that the recent election in El Salvador and the future it may hold will allow us to tolerate the pain and suffering of the past. However, let the message be clear: It is not a pain we will tolerate much longer. Unless meaningful conditions are attached to any future aid requests, this Senator will not vote to authorize or appropriate an additional dime of foreign aid assistance to the Government of El Salvador.

As we approach the consideration of larger military and economic aid requests proposed for Central America for fiscal year 1985, we must expect that our aid will be tied to policies which bring peace to the region, alleviate human suffering, and deny extreme elements of the right and left fertile ground from which to operate.

That is why I have recently cosponsored Senate Concurrent Resolution 97. Introduce by my distinguished colleagues Senator DURENBERGER, Senator INOUYE, and Senator KASSEBAUM, the resolution makes it clear that future economic and military assistance requests for Central America will require biannual approval by the Congress by joint resolution. Every 6 months, the Congress will be asked to assess the progress being made in at least seven distinct areas:

First, the establishment of unconditional discussions among various parties in dispute throughout Central America;

Second, the observance of free and regular elections;

Third, the curtailment of press censorship and other intrusions on the rights of free speech and assembly;

Fourth, the curtailment of hostile acts against neighboring countries;

Fifth, the establishment of an independent and functioning judicial system;

Sixth, the curtailment of acts of violence and other abuses of human rights of recipient countries; and

Seventh, the curtailment of capital flight, the implementation of agricultural reform, the curtailment of diversion of assistance funds, and other measures of economic stabilization.

The goal of Senate Concurrent Resolution 97 is the generation of independent information on developments and trends within Central America with which the Congress can make independent judgments.

My distinguished colleague, Senator MATHIAS, with my cosponsorship, has recently suggested a similar approach, one which would also indicate that the United States is willing to walk away from a recipient country which does not undertake certain policy reforms. To accomplish this objective, Senator MATHIAS has proposed the creation of a similar partnership between the administration and the Congress by requiring that a joint resolution be passed by the Congress and signed by the President before any U.S. military or economic assistance can be obligated.

To avoid putting the Congress in a position of weighing the administration's advice against that of groups like Amnesty International and America's Watch, independent information would be generated by the Central American Development Organization, CADO. In addition to its member from the United States and Central American countries, CADO could be expanded to include the Chairman of the Inter American Commission on Human Rights—an OAS group—representatives of the Contadora nations and a member of the Central American Bank for Economic Integration. In receiving independent reports on a timely basis, quarterly or otherwise, we in Congress would seek to make judgments on trends, rather than distortions occasioned by right and left wing terrorists indulging in a rash of killings right at reporting time.

Mr. President, the approach of Senate Concurrent Resolution 97 and that of Senator MATHIAS are very similar. Both indicate that the time for congressional partnership with the executive branch in creating a viable Central American policy has arrived. The time for real accountability for our actions has arrived. Central America poses very serious problems which our policy must address, problems which deserve the thorough investigation and debate provided for in Senate Concurrent Resolution 97.

There is no single solution to the problems we face in Central America. Our policy must be directed at relieving human suffering in the region and at emphasizing a negotiated settlement to the crisis. At the same time it is clear that Cuban- and Soviet-sponsored insurgents, who care only about their own political ends and not about the alleviation of human suffering, will have been denied their ability to undermine our program. This does not mean military aid only. It does mean a sensible military commitment. A commitment to training the military to function effectively in a democratic process, as the partners of political leaders and freely elected legislative bodies.

I would urge my colleagues to join us in developing the tools with which the Congress can seek to implement such a balanced approach. Partnership and accountability are the themes which must guide us.

Mr. DOMENICI. Mr. President, I support fiscal year 1984 supplemental funding for domestic child nutrition programs and the feeding program for women, infants, and children (WIC).

I also support additional aid to Central America on an interim basis until Congress has an opportunity to consider the President's plan to implement the report of the National Bipartisan Commission on Central America.

House Joint Resolution 492, as reported, provides $150 million in budget authority and $136 million in outlays to the Department of Agriculture for food aid under provisions of title II of Public Law 480. Of this amount, $90 million has been provided in the conference agreement on House Joint Resolution 493, and this bill has been amended to remove this double counting.

This resolution also includes $546 million for sustaining the domestic child nutrition programs until the end of fiscal year 1984. I applaud the President and the committee for their efforts on behalf of this important program.

Full-year funding for the WIC program is also provided in House Joint Resolution 492 at a cost of $300 million. This is $133 million more than requested by the President. I support the higher level. It is consistent with the latest congressional budget resolution assumption as to the amount required to fund this program through the end of fiscal year 1984.

The committee has included several important provisions relating to Central America. The funding in this bill for this purpose is not an adequate response to the problems of that vital region, but it will suffice until Congress has an opportunity to consider the recommendations of the National Bipartisan Commission on Central America.

With outlays from prior-year budget authority and possible later requirements taken into account, the Appropriations Committee is $9.1 billion under in budget authority and $0.6 billion in outlays over its section 302(a) allocation under the budget resolution.

Mr. President, I ask unanimous consent that a table showing the relationship of the bill, together with possible later requirements, to the congressional spending budget and the President's budget request be printed in the RECORD.

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

FISCAL YEAR 1984 EMERGENCY SUPPLEMENTAL BILL—HOUSE JOINT RESOLUTION 492, SENATE REPORTED—SENATE APPROPRIATIONS COMMITTEE STATUS

[In billion of dollars]

	Budget authority	Outlays
Action to date by Appropriations Committee [1]	521.6	506.8
House Joint Resolution 492, Senate reported [2]	1.0	0.9
Possible later requirements	4.2	4.2
Adjustment to conform mandatory programs to budget resolution assumptions	1.9	1.3
Appropriations Committee total	528.8	513.2
Committee 302(a) allocation [3]	537.9	512.6
Committee total compared to committee 302(a) allocation	−9.1	+0.6
President's request for House Joint Resolution 492 [2]	0.8	0.7
House Joint Resolution 492, House passed [4]	0.1	0.1

[1] Includes enacted regular appropriation bills, the further continuing resolution, the omnibus supplemental; House Joint Resolution 493, conference agreement; outlays from prior years and other prior actions. Estimates are based on the economic and technical assumptions in the fiscal year 1984 budget resolution.

[2] Does not include the $90 million for Public Law 480 provided in the conference agreement on House Joint Resolution 493 but also included in this Senate-reported bill. Even after this double counting is removed, the Senate-reported bill still provides an appropriation of $60 million for Public Law 480.

[3] Includes reserve fund allocations made on September 14 and Oct. 27, 1983.

[4] Includes only the supplemental appropriations for Public Law 480, Emergency Food Assistance for Africa, adjusted for the $90 million included in the conference report on House Joint Resolution 493. Senate-reported bill and President's request also include supplementals for WIC, child nutrition, military assistance for El Salvador, and covert assistance in Central America.

Mr. MITCHELL. Mr. President, the pending legislation, House Joint Resolution 492, the urgent supplemental appropriations bill, provides funds which may be used by our Government and local forces this year in the Central American states of El Salvador, Honduras and Nicaragua.

The bill contains $92 million in military assistance for the Government of El Salvador. Of this amount, approximately $50 million would be spent to maintain the current level of military effort through the end of the fiscal year. The remaining $42 million is being proposed for additional military equipment, military support services, and medical equipment which in fact will increase substantially the U.S. level of military effort in El Salvador.

In addition, the bill contains $21 million in covert aid which may be spent in support of, or dispensed to, fighting forces based in Honduras and Nicaragua which are dedicated to the overthrow of the Sandinista government of Nicaragua, $14 million of this amount is allocated to the reserve fund for contingencies administered by the Director of the CIA and is subject to statutory procedures applicable to the fund.

These two provisions were requested by President Reagan and reflect his approach toward Central America. This approach, in my view, misunderstands the cause of the problem and relies excessively on military force to solve it.

To the President the problem in Central America is communism, as represented by the Soviet Union and Cuba. The President, of course, sees no need to differentiate between what is happening in the Middle East, in Southwest Asia, or in Southeast Asia; to him the culprit is the same in every case. As Yale historian C. Vann Woodward reminds us in the April 9 New Republic, the President has declared:

> The Soviet Union underlies all the unrest that is going on, and without it there wouldn't be any hot spots in the world.

While it is clear that the Soviets and the Cubans, and their allies in Central America, are exploiting the circumstances which exist there, there can be no doubt that the root cause of the problem lies in the economic and social conditions of the area.

The conflict in El Salvador can be understood only if viewed in its historical perspective.

Unfortunately, the debate over El Salvador shows every sign of turning into a national referendum on Vietnam. I hope that does not occur, because the differences between El Salvador and Vietnam are far more important than the superficial similarities.

Vietnam is 9,000 miles away from U.S. territory. El Salvador is not only a near neighbor in this hemisphere, but it is close to the Panama Canal with all its implications for our security needs.

Vietnam's conflict was the outcome of a century-long colonization brutally disrupted by the World War II Japanese invasion and subsequent defeat. El Salvador's colonial history ended in 1821, when the Central American nations gained independence from Spain.

Until our first faltering steps into Indochina in 1954, there was no history of American involvement, influence or interest there. By contrast, the United States has had a military mission in El Salvador since 1948 to train the Salvadoran Armed Forces, and direct U.S. involvement in Central America predates that military mission by half a century.

From our overt support for the breakaway province which became the nation of Panama at the turn of the century, through the use of Marines in Honduras in 1903 and 1923, through our 20-year occupation of Nicaragua from 1912 until 1933, U.S. activity and influence in Central America has been consistent and continuous.

Our support for American corporations—notably United Brands in Honduras and United Fruit in Nicaragua—is remembered by Central Americans as the sole source of U.S. concern about their region. And the fact that U.S. concern so frequently manifested itself in military action has created a background against which we must consider relations today. No similar situation existed in Vietnam.

At the same time, there is one very substantial aspect of our experience in Vietnam which is echoed in the current debate over El Salvador. That is in the apparent unwillingness of the administration to recognize that each country has its own history, its own culture, its own economic relationships, and its own legacy of friendships and animosities. We ignored those facts in Vietnam at great cost. We ignore them in El Salvador at great risk.

This administration entered office in 1981 proclaiming that the conflict in El Salvador was a simple case of "Us against Them; West against East; Democracy against Communism." In other words, it said, the war in El Salvador was simply the most recent outbreak of United States-Soviet hostilities, and that it must be approached that way.

Although as it relates to El Salvador, the administration's East-West rhetoric has moderated since 1981, there is no evidence that the realities of El Salvador are being given any more weight today than they were 3 years ago.

What are those realities?

Fundamentally, El Salvador is a nation which for more than a century has endured an uneasy and unpeaceful coexistence between a small group of large plantation owners and the mass of the people. Ninety-four percent of the population of El Salvador is Mestizo, a Hispanic-Indian ethnic group, made up mostly of landless laborers, tenant farmers and, more recently, urban dwellers and refugees. The bulk of the income in the country has been largely concentrated in the hands of a few families which have made up the El Salvadoran elite since the turn of the country.

That income and land distribution pattern has been changing in very recent years. But the pace of change is very slow, and the extent to which that change may be permanent remains questionable. It will be sometime before we will be certain that new land reforms, for instance, will endure.

And it will be a long time before El Salvador will be free from violence. Indeed, the violence we have witnessed in the past 3 years does not represent a departure from El Salvadoran experience.

Peasant resistance to the land takeover by the original "fourteen families" has been a source of violence since 1870. That resistence required military intervention several times by the turn of the century. In 1932, a peasant rebellion was harshly suppressed at a cost of more than 15,000 campesino lives. The intervening decades have been marked by military regimes, wars with neighboring nations, and the institutionalization of a system of death squads in the countryside whose primary function was to take reprisals against dissatisfied peasants so as to maintain the condition that El Salvador has known as peace for the last century.

The recent history of El Salvador includes a series of military dictatorships interspersed with elections whose outcome was ultimately determined by the military, not the voters. In 1972, Jose Napoleon Duarte was cheated of his election victory by a military regime, which then continued to enjoy the support of the United States.

Its successor regime in 1979 was overthrown by a reformist military coup which itself succumbed to a rightwing takeover the following year. Duarte returned to take part in one of the successive juntas, and then was ousted from leadership as a result of the 1982 election.

Today, our Government hopes that Duarte will be returned to power in a democratic fashion. As a result of last Sunday's election, his prospects of ultimately prevailing have improved. However, we cannot depend on any single person to create an environment conducive to U.S. interests.

It is difficult to build a solid house on a weak foundation. It is equally difficult to build a sound foreign policy toward El Salvador on the past policy

which has lacked an understanding of the roots of the conflict.

For proof of the bankruptcy of our past policy, we need only examine the continued human rights violations in El Salvador, which our influence has been unable to halt.

The Congress had sought to address the human rights problem when it required the President, every 6 months, to certify that progress was being made by the El Salvador Government to improve human rights in the country. The initial response of the President to this directive was to falsely certify progress when there was no progress; the final response was a Presidential veto which canceled the certification procedure altogether.

Both Presidential actions send the same message to the Salvadoran elite and to those active on death squads: American aid will continue regardless of human rights violations, because the Reagan administration cares more about a victory over subversives than it does about the creation of decent conditions in Central America.

Our concern about human rights may mask an equally serious problem in El Salvador—a problem to which our current policy offers neither recognition nor solution.

In the last 3 years, El Salvador has experienced a massive capital flight. The El Salvadoran Minister of Planning estimated in 1982 that $1.5 billion in capital had been exported from the country to safer havens—including American banks in Miami.

That capital flight has occurred because people with wealth in El Salvador clearly fear for the future of their country. Although the export of capital may make sense from the point of view of the individual El Salvadoran businessman, it makes no sense from the point of view of American policy. It compels me to ask this question: Why are American taxpayers being asked to support the economy of a country whose own economic leaders refuse to do so?

American taxpayers should not be asked to bail out a nation whose economic elite—the people who have prospered most from past conditions in that country—are unwilling to do so.

And in these circumstances, it is even more difficult to see the justification for an expansion of U.S-financed military programs in a country whose leadership is prepared to procrastinate and undermine essential domestic reforms, to evade responsibility for its own security forces, and to avoid even minimal exercise of its power to protect the economic basis of the country.

Yet, it is precisely a policy of military victory which the administration is pursuing and for which it is now asking for additional money. The administration seems unwilling to recognize either the current conditions in El Salvador or the historical background which created them. Its policy is to achieve a military victory, a total defeat of the insurgents.

But throughout the history of the country, neither the ruling elite nor the campesinos have ever been able to win such a victory. There is no evidence that American arms will enable one side to achieve today what neither side has been able to achieve in over a century of violent struggle.

The only realistic prospect for an end to the killing and a peaceful future for the people of El Salvador lies in negotiations involving all segments of that society.

And the involvement of other Central American or Latin nations in setting up the conditions in which such a dialog could take place makes the most sense.

I support the Contadora policy—giving a chance of success to the diplomatic initiative offered by those nations which in early 1983 met on the Panamanian island of Contadora. These nations—Panama, Colombia, Venezuela, and Mexico—have the closest ties to and the most direct interest in Central America. They retain relative freedom of movement and need not be hamstrung by overtly political considerations nor by past history.

They are neither U.S. clients nor Soviet clients. They have the independence and the incentive to play a mediating role. The challenge to the United States, as I see it, is to help create a political environment which will let the Contadora negotiations occur and succeed.

Last October 14, the Secretary General of the United Nations reported to the Security Council that certain Central American countries had reached agreement, based on the Contadora group's initiative of September, on objectives for bringing about an end to the conflict in the region in accordance with international law. Among these goals were respect and guarantees for human, political, civil, economic, social, cultural, and religious rights; promotion of the reconciliation of divisions in societies of the region that would permit participation in domestic political processes; establishment of mechanisms to control or impede the flow of arms from one country to another; and the launching of programs to increase economic and social welfare and an equitable distribution of wealth.

This agreement results from skilled diplomacy by the countries of the Contadora group. Their efforts should be supported by the United States.

This brings us to the various options which we have with respect to the Central America funding contained in this bill. None of these options are particularly desirable.

One option—the President's option—is to pursue a military solution. This option will be very expensive and impossible to achieve. Between here and there, many thousands of additional lives will be lost. Some could even be American lives. Approval of the full $92.75 million requested by President Reagan would accelerate the pursuit of the military solution.

Another option represents the opposite extreme. Under it, the United States would provide no more funds to El Salvador. We would just stop and pull all Americans out of Central America. Though inexpensive in terms of dollars, it may ultimately be as expensive as the first option in terms of lives lost and justice denied. A complete termination of U.S. support for the Salvadoran Government would result in the disappearance of all moderation. The vacuum created would be filled rapidly by either the extreme right or extreme left. Whatever spark of democracy exists in El Salvador would, in either case, be violently extinguished.

This option would also undermine the Contadora effort. Arms and men are entering Central America from both sides. The Contradora nations want the arms supply stopped and foreign forces withdrawn. But they recognize that this can occur only in the context of regional negotiations which lead to that conclusion. If one side terminates the supply and withdraws prior to negotiations, there will be nothing left to negotiate. That is not a prescription for peace or for self-determination in Central America.

The third option is the least objectionable of the three. It proposes to maintain the current level of military effort by providing roughly half of what the President has requested. This option permits the current military effort to continue, but does not allow the increase in that effort sought by President Reagan. It is the only option which would permit comprehensive negotiations between all factions, as advocated by the Contadora nations.

Contrary to administration rhetoric, comprehensive negotiations do not mean giving to the insurgents at the bargaining table what they could not win on the battlefield. Negotiations mean providing assurances of physical safety for opposition political leaders, so that elections are not marred by assassinations, and their outcome is not a mandate for the winners to exterminate the losers. Negotiations are the only forum in which moderates on both sides can be strengthened.

Beyond the three options I have described there are other policy approaches available to this Senate. The amendments offered by my colleague from Massachusetts (Mr. KENNEDY) embody several of these approaches and are worthy of further consideration. For example, I hope that before

too much time passes, a second chance will be given to Senator KENNEDY's amendments which would place human rights conditions on aid to El Salvador; bring to the negotiating table the disagreeing factions in the civil war; and require that congressional approval be forthcoming before any U.S. combat troops could be introduced into El Salvador.

The first example which I cite was a Kennedy amendment which provided that no more than 70 percent of the military assistance to El Salvador during fiscal year 1984 may be obligated or expended until Salvadoran authorities have brought the national guardsmen charged with murder in the deaths of four U.S. churchwomen to trial and have obtained a verdict.

The second was a Kennedy amendment which conditioned the provision of military assistance to El Salvador on the initiation of unconditional negotiations.

The third was a Leahy amendment which sought to require the full approval of the Congress before any U.S. combat forces can be sent into El Salvador or operate in the skies over that troubled nation.

I supported each of these three amendments, unfortunately they were rejected.

Military action—especially long-term, inconclusive military action—polarizes any society in which it occurs. U.S. involvement in military action in Central America is particularly polarizing because of the historic pattern of which it appears to Central Americans to be a continuation.

The United States has a long history of backing right-wing regimes in this hemisphere. Whether that reputation is consonant with current realities is beside the point. The fact is that most of the people of the region believe it, and have what they regard as sound reasons for believing it. And they resent it.

Continued and escalating military action of the kind the administration appears to be proposing will not eliminate that resentment. It will not alleviate regional fears of U.S. power. It will intensify, not reduce, the automatic opposition to any U.S. initiative which is a sad legacy of our history. And escalating military action will ultimately force moderates to the polarized extremes where irrational hatred of the U.S. wars with irrational fear of the political left.

As the wealthiest and most powerful Nation in the hemisphere, the United States has a continuing and central role to play in the future of all of the Americas. If we want that future role to be a rational, sustainable one, we have to take into account the perceptions of our neighbors; acknowledge when those perceptions—even if painful for us—are reasonable, and seek to persuade them when they are wrong.

We do not have to endorse left-wing regimes or terrorists to persuade Central Americans of our good faith, nor should we. But we do have to do more than the Reagan administration has so far been willing to do in El Salvador to fulfill in practice, as well as in words, the American commitment to human rights, the rule of law, and the sanctity of individual life.

More than a hundred years of intermittent civil war have not solved El Salvador's problem. It is unlikely that more war will. The only meaningful solution is a negotiated settlement which ends all outside interference and permits the people of El Salvador to decide their future by themselves and for themselves. If we can help make that possible, our policy there will have been successful.

Mr. President, as I stated earlier, I do not favor a complete termination of the U.S. assistance. As I have also indicated, the Inouye option is the least objectionable of the El Salvador approaches available to us.

However, I am disappointed that a series of amendments which would have perfected the Inouye approach all have been rejected during the course of our debate. In addition to those I have already cited, these amendments include—

Senator LEAHY's amendment to the War Powers Resolution prohibiting the introduction of U.S. Armed Forces into El Salvador for combat, or combat support operations unless the Congress approves; and

Senator DODD's amendment to prohibit funds from being used to support terrorist operations in, or offshore of Nicaragua.

Mr. President, I am also very disturbed by the refusal of this body to eliminate—or at the very least, to further limit—the covert aid funds which this legislation directs to the Contras of Nicaragua.

U.S. funding of the Contras' efforts to undermine and overthrow the ruling regime in Nicaragua is illegal. It is illegal under U.S. law, under accepted public international law, and is contrary to the norms of behavior and values which we profess to embrace.

Despite my strong support for a number of sound programs contained in this bill—for instance, the women, infants, and children's (WIC) program and the African emergency relief program—I cannot, in good conscience, vote for final passage of the bill. Its weaknesses with respect to our Central American policies simply overpower its strengths in other areas.

Mr. BAUCUS. Mr. President, during the past week, the Senate has debated and voted on many aspects of U.S. foreign policy in Central America. I wanted to briefly outline my views on Central America and explain the votes I have cast.

I support a regional, negotiated solution to the Central American conflict. I believe the United States has a constructive role it can play in that process.

The administration has placed too great an emphasis on military options to the detriment of potential diplomatic solutions. It may be that some military presence is necessary. But such involvement should only be reviewed from the perspective of whether or not it can help lead to a regional, negotiated settlement.

In addition to this overall framework, my votes were based on two other basic principles. The first is that we in Congress should not abrogate our responsibility to develop and carefully review foreign policy questions. I, therefore, strongly support those measures which enhance congressional involvement and oversight.

Second, the United States should use its political, economic, and military leverage to encourage the development of democratic institutions and values. Our Nation's strong support for free elections, for a meaningful judicial system, for freedom of the press, for freedom of religion, and for the observance of human rights principles is not only appropriate but essential. That is why I have supported tying Central American aid to improvement in human rights conditions and to prosecution of important judicial cases. While these conditions are awkward tools, they do communicate Congress commitment to those objectives.

It is within this overall framework that I have cast my votes over the past week. With respect to aid to El Salvador, I supported amendments to decrease the aid package from $61.7 million. I supported the Melcher amendment which would have lowered that figure to $34 million and I supported another amendment which would have lowered the amount to $21 million—$21 million would have provided El Salvador with enough funds through its runoff election. In my view, a complete cutoff of military aid during the runoff period would have sent the wrong signal to El Salvador. We should be showing support for the electoral process.

I also supported an amendment which would have withheld 30 percent of all military aid to El Salvador until there had been a verdict in the case against the national guardsmen charged with the murder in the deaths of four U.S. churchwomen. I supported an amendment which would have cut off military aid to El Salvador after May 31 unless the government had initiated a prosecution of those involved in the murder of two American labor advisers in 1981.

With regard to aid to Nicaragua, I do not support covert aid for Nicaragua. Everyone is aware of our involvement

with the Contras and it is ludicrous to consider such an operation to be covert. Given the circumstances, there should be a full and open debate of our actions with respect to Nicaragua. I voted for the amendment which would have eliminated the $21 million of covert aid from the bill. I also voted for language which would prevent the covert aid from being used for terrorist operations in Nicaragua.

While I do not oppose joint United States-Honduran military exercises, I do believe that Congress should exert more careful oversight of our operations there. I cosponsored and voted for the Sasser amendment, which would require congressional approval before any temporary bases in Honduras were converted into permanent military facilities.

With regard to the presence of U.S. combat troops in the region I opposed the two Kennedy amendments limiting that presence because I thought they were not narrowly enough drafted. The amendments could have prevented the presence of U.S. advisers already in El Salvador or could have prevented the joint United States-Honduran exercises. I did support the Leahy amendment which would require congressional approval before the introduction of U.S. Armed Forces into El Salvador.

None of the Central American amendments I supported were adopted. I am disappointed because I believe their adoption would have strengthened U.S. policy in the region.

I remain convinced that our current policies place too heavy an emphasis on a military solution. Our best hope for Central America is a negotiated regional solution and our Nation's continued dedication to principles of democracy and human rights.

● Mr. BINGAMAN. Mr. President, I will not vote for final passage of House Joint Resolution 492. I believe that the provisions in this bill which relate to our policy in Central America are misguided and counterproductive.

I will not repeat at great length the arguments that have been made on these issues over the last 2 weeks, Mr. President; but I do think the following points add up to a dangerous role for our country in this troubled region, and a role which will not advance our national interest.

First, and most serious, the Senate has rejected efforts to ban covert military aid to the Contras who are fighting the Sandanista government of Nicaragua. I believe this is the largest single mistake of our policy in Central America today. By supporting this activity we are only strengthening the position of the Sandanista government and undermining whatever credibility we may have for achieving peaceful change in Central America.

Second, the Senate has refused to require congressional consent before American combat troops can be ordered into the conflict in Central America. I believe this is a dangerous precedent.

Third, the Senate has refused to place any restrictions on the continuing American military presence in Honduras. I am deeply concerned that we are building what is in effect a permanent military presence, supported by substantial construction of military facilities. Developed pursuant to a series of military exercises, these facilities have been built outside the normal congressional review and decisionmaking process.

Fourth, the Senate has refused to condition aid to El Salvador on the willingness of the government to negotiate a peaceful settlement in that tortured country. Once again, we are signaling that we are more interested in a military solution than in a political settlement.

Finally, attempts also failied to condition a portion of aid to El Salvador on a full investigation and fair prosecution of those responsible for the murders of the four American churchwomen.

In closing, Mr. President, I want to reiterate my disappointment with the decisions made by the Senate on this bill. I believe we are continuing with a profoundly ill-advised policy in Central America, and I wish to make my position as clear as possible in casting this vote.●

● Mr. PELL. Mr. President, it was with a great deal of regret that I voted against final passage of House Joint Resolution 492, the urgent supplemental appropriations bill. The primary purpose of this legislation, initially, was to provide emergency food assistance to African nations, and also to provide additional and needed funding for the WIC program—nutrition assistance for women, infants, and children—and other child nutrition programs. I strongly support additional funding in these areas, and regret that the central purpose of the bill has been burdened by the addition of further military assistance to El Salvador.

The administration has made an end run around Congress by insisting on attaching the request for military assistance to this important supplemental appropriations bill. Although the administration's original request of $93 million in military assistance for El Salvador has been reduced to $62 million, it is still objectionable. I believe it is a mistake for the United States to commit further military assistance until the outcome of the elections in El Salvador is determined. I certainly do not want to face the prospect of giving a D'Aubuisson government millions of dollars in military assistance.

After the Senate accepted the $62 million level of military assistance, I joined with a number of my colleagues in efforts to place reasonable conditions and limitations on the funds appropriated by this bill. We tried to make the grant of the funds contingent on bringing those guilty of the murders of the churchwomen to trial. We tried to stop the funding of covert operations against Nicaragua. We tried to stop the funding of terrorist activity practiced by the Contra forces. We tried to prevent the introduction of U.S. combat forces into Central America, and specifically, into El Salvador. We tried to stop the establishment of a permanent military presence in Honduras.

Regrettably, all of these reasonable restrictions on the granting of $62 million in military assistance to El Salvador were defeated. For these reasons, coupled with the fact that the administration bypassed the authorization process in seeking these funds, I am compelled to vote against this supplemental appropriations bill despite my strong support for the food and nutrition programs contained in the legislation.●

Mr. HATFIELD. Mr. President, we have completed all the amendments, and we are ready to move to third reading. However, on an agreement with the Senator from Florida, who had an amendment pending, which I understand he will not offer, he wishes to make a statement in lieu of that amendment. We are finished now with the bill except for that one statement.

Mr. CHILES. Mr. President, if the Senator wishes to go to third reading, I will allow him to do that. I see he is a little anxious.

Mr. HATFIELD. Mr. President, I can wax eloquently for the next half hour on the virtues of the gracious manner of the Senator from Florida, and it has been confirmed again. I am very appreciative of the fact that he has yielded for that point.

I believe the Senator from Massachusetts indicated that he would like to be recorded as voting "no," and I have received a signal that there is a request for a rollcall vote. So I ask now that the Chair put the joint resolution to third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, on March 15, the Republican leadership announced a plan they had worked out in conjunction with the White House after there had been some attempt at bipartisan meetings. That was worked out.

The next day, March 16, I wrote the chairman of the Senate Budget Committee and asked for hearings on that plan and for the budget process to start.

Also, I think on that day, March 16, the Democrats announced their budget reduction plan in which we said that we thought that the Republicans had progressed in their plan. We hoped that they would go a little further, that we needed to have some more savings, and we wanted to participate in trying to improve their plan and go a little further on that.

March 26 was the date that the Budget Committee had scheduled a markup, but we did not start the markup at that time, even though we had a number of hearings going back into February prior to that time.

Then we come along to March 29 at which time the Democrats held a press conference and asked that we go to the Budget Committee, that we not bypass the Budget Committee and that we begin our markups.

One of the proposals in the Republican plan was that we just bypass the Budget Committee, that we go forward without any kind of markups, that we put into one single package, by waiving the germaness rule, which can be done with 51 votes, all the spending cuts, all of the tax cuts, and there would be no need to go to the Budget Committee.

I suppose after that was passed, then the Budget Committee could go pass a simple resolution that conformed with that.

Mr. President, that is something that gave a number of us heartburn. I was one of them. A number of Senators on both sides of the aisle felt that was not the way we should be conducting business. We had passed the budget law. We had a great deal of debate before that law was passed. We have been operating under that law for a number of years, and while it certainly had its imperfections, it allowed us to go through and hold hearings, with everyone to get a chance to analyze different plans, and that was the process that we should follow.

There was negotiation back and forth, and it looked as though we were not arriving at much progress on that, and in the face of that, Mr. President, I decided that I was going to offer a sense of the Senate resolution that would call on the Senate to express itself, that we should have Budget Committee hearings, that we should start that process and that we should adopt a budget that would be less than $180 billion, in the first instance, in 1985, and then decline to figures of less than that in each of the succeeding years through the 3 years that we would be dealing with.

That was an amendment that it appeared we were going to have to take up today. The chairman of the Appropriations Committee asked me what kind of time we were going to take on that amendment, and I told him that I frankly did not know that. He said give him a range, and I said I think anywhere from 1 hour to 20 days.

I did not say that entirely facetiously because I felt that we were going to have to take sufficient time to try to educate the Senate and if necessary try to have the country understand that there is a reason for the budget process, that it offers a promise of helping us to get to where we are all seeking to go, and that is to reduce the deficit and allow this economic recovery to continue.

On March 30 the Democrats made an offer on the change of procedure that I think we thought at that time would accommodate the wish of the Republican leadership that they get some kind of a vote in the final analysis that would allow the tax cut and the spending cuts to be made together and one vote to be taken at that time.

We had not heard anything from that, but today it does appear that we now are going to start our Budget Committee markups, that they are going to start the first of the week, and so with that assurance, Mr. President, I am not going to offer the amendment. The entire purpose for the amendment was to try to see if we could get to the Budget Committee, and I am delighted that the leadership has now indicated that we are going to start the budget markup.

I hope and trust that those markups will move expeditiously, and that we can start the first of the week. I think debate is going to be continuing on other matters. So it certainly should not tie up the budget process entirely. In fact, I think it now offers us the opportunity to speed up the process overall and to reach a better resolution of this before we are through.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. CHILES. I am glad to yield to the majority leader at this time.

Mr. BAKER. Mr. President, it will not take but a moment.

I congratulate the Senator on his statement. I think we have arrived at the place where we can make good progress on two fronts.

I am pleased that the Budget Committee will go forward. I am also hopeful that the Senate will go forward in the matter of trying to address the reconciliation aspect of this matter.

But I think what has happened in the last few days, in the conversations that have been held and negotiations that have been undertaken, has been a tribute to the very best spirit of the Senate, a spirit of understanding and give and take and appreciation of the respective concerns, problems, and aspirations of Members.

I will not burden the RECORD further in explanation of that except to say that a great deal of effort has gone into trying to put a package together that we can work our will on, as the Senate is fond of saying, and that the Senator from Florida has been an essential part of that as the ranking minority member of the Budget Committee. He has been the very essence of responsibility, and I commend him for his action in not offering his amendment here, and I am delighted that he and the chairman of the committee have agreed on the time to begin hearings and action within the Budget Committee, and I can assure him we will go forward with that.

Mr. CHILES. I thank the majority leader. I thank him for his kind statment and his kind remarks. I also thank him for his perception that this is a way in which we can have the Senate work its will within the processes that we have set up, within the law that we have set up, and I think that will stand us in good stead as we go forward through this process.

Mr. President, I think that we are doing a wise thing now by not bypassing the committee. While there is no firm agreements as we work through the entire process, I hope that we will find a way to seek unanimous-consent agreements rather than set bad precedents by trying to waive germaneness on a reconciliation bill.

This is an extraordinary remedy that we have set up in reconciliation by limiting the time. I am very sensitive to that extraordinary remedy because I hear from Members all the time who say: "You guys on the Budget Committee have changed the whole process here. You have taken over where there is no need for any other committees, and we are going to do something about it. We are going to strip you of your powers or we are going to knock out the Budget Committee."

So some of us who feel there is some purpose for the committee recognize that we have to tread very softly because we have set up some extraordinary remedies and reconciliation where we limit the time on debate on amendments and we limit the time on the overall bill. We really change rule 22 very basically. So I think we have to be very careful for any majority to decide that they can start a waiver process and still benefit through those extraordinary remedies or extraordinary rules that they have in the reconciliation process.

We have already been notified that there were all kinds of attempts that could come in under germaneness,

that line item veto is something that could be placed on this, on a lot of our social issues, 51 votes could put them down, and I think it would not be long that we would certainly regret that we had waived that.

I say, also, Mr. President, if you really look and see where spending limits have come from in the past and where I think they will come from in the future, I think the spending limits that we have seen and that we will see in the future will come out of the budget. I do not think they will come out of the rose garden. I do not think they nurture very long out of that garden. I think they will do better if they come out of the committee.

So I am delighted that we now see that we are going to get this opportunity to go to the committee. I am confident that each member of the Budget Committee is going to work diligently and that we are going to see a package come out of there that I hope will be representative of the Senate and I hope will speed the process when we come to the Senate floor.

Mr. EXON. Mr. President, I wish to take a moment or so to offer some words of congratulations and thanks. Just when I felt we faced a totally hopeless situation, the clouds of confusion parted once again and the Senate is allowed to work its will.

I wish to commend the great efforts of those that accomplished this. I wish to thank the majority leader and the minority leader. I wish to thank the distinguished Senator from Oregon (Mr. HATFIELD) and the distinguished Senator from Mississippi (Mr. STENNIS), the chairman and ranking minority member on the Appropriations Committee. And certainly I wish to thank the Senator from New Mexico (Mr. DOMENICI) and the Senator from Florida (Mr. CHILES), the leaders of the Budget Committee.

I am delighted that the budget process will be allowed to work once again. I am a member of the Budget Committee and I will be back here Monday to discharge my duties on that committee.

Having said all this, I just want to bring to the attention of the United States Senate a major concern of all of us here that I think is not stated often enough, Mr. President. If you see the situation the country is in today, you see that the stock market was down over 18 points today, commodity prices across the board were down at a time when the great agricultural sector of our economy is facing by far the worst situation it has been in since the Great Depression, and you see that interest rates were up again today. That is the reason I want to congratulate Senator CHILES and Senator DOMENICI for their diligence in seeing that we go to work in addressing the primary economic concerns of this country today which, of course, are the budget deficits—totally out of control—the skyrocketing national debt that no one can see at this time how high it is going to go, and the trade deficit that continues to plague this country.

I simply say that, with this, Mr. President, we cannot wait until after the election. I am delighted that we are going to try and do something about the problems that I have just outlined and hopefully get on with the business of reducing the overall interest rates in this Nation by forthrightly attacking the major problems that are causing the continued real high interest rates.

Once again, the majority has worked its will. The vote that is about to take place will undoubtedly carry for the bill. The vote of this Senator from Nebraska will not be with the majority. Once again, though, the process worked. The majority has worked its will, which is what this great body is all about.

Once again, in closing, I just wish to thank those who had an integral part in moving this process speedily ahead. It shows that we can do things right when we have to, even though sometimes we are near the end of the road to where it almost looks hopeless.

The leadership should be saluted. I, as one Member of the Senate, am proud to stand and say, once again, I am proud of you.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, I thank the Senator from Nebraska and the Senator from Florida. I think we all recognize that this could not have been accomplished without the cooperation from both sides of the aisle.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATFIELD. All time is yielded back.

Mr. EXON. Mr. President, all time is yielded back on this side of the aisle.

The PRESIDING OFFICER. All time has been yielded back. The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that the Senator from North Dakota (Mr. BURDICK) and the Senator from Arizona (Mr. DECONCINI) are absent on official business.

The PRESIDING OFFICER (Mr. RUDMAN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 76, nays 19, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—76

Abdnor	Goldwater	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Nunn
Baker	Hatch	Packwood
Bentsen	Hatfield	Percy
Boren	Hawkins	Pressler
Boschwitz	Hecht	Pryor
Bradley	Heflin	Quayle
Bumpers	Heinz	Randolph
Byrd	Helms	Roth
Chafee	Hollings	Rudman
Chiles	Huddleston	Sasser
Cochran	Humphrey	Simpson
Cohen	Inouye	Specter
D'Amato	Jepsen	Stennis
Danforth	Johnston	Stevens
Denton	Kassebaum	Symms
Dixon	Kasten	Thurmond
Dole	Lautenberg	Tower
Domenici	Laxalt	Trible
Durenberger	Long	Wallop
Eagleton	Lugar	Warner
East	Mathias	Wilson
Evans	Mattingly	Zorinsky
Ford	McClure	
Garn	Moynihan	

NAYS—19

Baucus	Kennedy	Pell
Biden	Leahy	Proxmire
Bingaman	Levin	Riegle
Cranston	Matsunaga	Sarbanes
Dodd	Melcher	Weicker
Exon	Metzenbaum	
Glenn	Mitchell	

NOT VOTING—5

Burdick	Hart	Tsongas
DeConcini	Stafford	

So the joint resolution (H.J. Res. 492), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move the Senate insist on its amendments to House Joint Resolution 492 and request a conference with the House of Representatives on the disagreeing votes of the two houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. COCHRAN, Mr. KASTEN, Mr. STENNIS, Mr. PROXMIRE, Mr. INOUYE, and Mr. EAGLETON conferees on the part of the Senate.

Mr. BAKER. Mr. President, first, I wish to express my deep appreciation and, indeed, my admiration to the managers of this supplemental appropriation bill. Senators HATFIELD and STENNIS, as the chairman and ranking member and principal managers, deserve the thanks of the entire Senate for their skillful management of a controversial piece of legislation.

There are many other Senators who deserve recognition and the thanks of all Senators on both sides for their participation in this debate and for their contribution to the resolution of disputes within this body.

On this side, ones who come to mind, of course, are Senator STEVENS and Senator KASTEN, who were so instrumental in managing this bill on a day-to-day basis within their particular specialties and responsibilities. On the other side, their counterparts, of course, were equally diligent, as were those Members who offered amendments and those who spoke on the bill and on the several amendments.

The Senate spent 10 days on this measure. Senator STENNIS and, of course, Senator INOUYE, without whose help the bill could not have been brought to a successful conclusion.

The Senate has spent 10 days on this bill, Mr. President. We have used a total of more than 57 hours of debate. We have conducted 16 rollcall votes; 46 amendments were disposed of in one manner or the other. That makes this bill a major piece of legislation in the scope of the activity of the Senate and the time consumed to deal with it.

Mr. President, may I take a special opportunity to commend Senator INOUYE, Senator KASTEN, Senator STEVENS, Senator HATFIELD, and Senator STENNIS in one other regard: Too often, the Senate of the United States is accused of being overly partisan and sometimes it is alleged that that partisanship distorts the final result of the legislative policy that is finally adopted by this body. With the help of the chairman and ranking member of the Intelligence Committee, Senator GOLDWATER and Senator MOYNIHAN, and those I have just mentioned, I think the Senate has restated the principle of bipartisan concern for matters of major importance. Without Senator GOLDWATER and Senator MOYNIHAN, it would not have been possible to bring this matter to a successful conclusion. Without Senator INOUYE and Senator GOLDWATER, Senator KASTEN, Senator HATFIELD, and Senator STEVENS, we might have been on this bill for weeks instead of just the 10 days we have consumed.

We have all had ample opportunity to express our views on matters of extraordinary sensitivity and great political significance. I believe this is a fine hour in the history of the Senate in its responsible discharge of its responsibility to address important and sensitive issues. I take this opportunity, perhaps at greater length than I should, to express my gratitude and appreciation to these Senators and some others who have made it possible to deal with these sensitive issues.

Mr. BYRD. Will the majority leader yield, Mr. President?

Mr. BAKER. Yes; I yield.

Mr. BYRD. Mr. President, I join with the majority leader in his remarks. I wish to state my admiration as well as my compliments with reference to the fine work that has been done by the chairman of the committee and the ranking member, Mr. HATFIELD and Mr. STENNIS, and the managers on both sides of the aisle, Mr. KASTEN, Mr. INOUYE, and Mr. STEVENS. I say the Senate is in their debt.

Mr. BAKER. Mr. President, I thank the minority leader. I usually lead off by doing that, but he knows that on matters—I started to say of this importance, but on all matters—we are not only in regular communication but communication throughout the day, sometimes almost moment by moment, trying to accommodate the needs of Senators on both sides of the aisle. Without his assistance, it would not be possible to move this bill and many others. I once again express my gratitude to him for his assistance.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. HATFIELD. Mr. President, I thank the leadership for the very fine and generous remarks he made. On behalf of all members of the committee, I express my appreciation. I only want to say that without the support of the leadership we have always had in these difficult times, we could not move this bill. Especially may I thank Senator STENNIS for his outstanding support. From one moment to the next, I knew it was there as the bulwark of support.

I think, Mr. President, the real burden fell on the subcommittee chairman (Mr. KASTEN), and on Senator INOUYE, the ranking member on this bill. Especially would I like to thank Senator KASTEN, who put in hours upon hours on this bill and relieved me of that responsibility. He handled it with great professionalism and great skill.

I have one tag-end request, Mr. President. I ask unanimous consent to add as orignial cosponsors of an amendment offered by the Senator from West Virginia (Mr. BYRD) and myself relating to the authorization of Bonneville Locks and Gallipolis the names of Senator PACKWOOD of Oregon, Senator GORTON of Washington State, and Senator EVANS of Washington State and Senator RANDOLPH, if I have not already done that.

Mr. President, I ask unanimous consent that Senator SPECTER of Pennsylvania be added.

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

The majority leader.

Mr. BAKER. May I say for the information of Senators, there will be, I anticipate, another rollcall vote tonight. May I point out at this point what I hope will be the agenda of the Senate for today and Monday.

Mr. President, I am sure the description I just gave did not escape the notice of Members. I think it is possible that we can finish the next item of business that needs to be done, have a rollcall vote on it, then lay down Monday's business. Before I go through this sequence, let me say there have been extensive negotiations, as Members know, on the matter of trying to find a way to approach a budget package. Let me say that no formal agreement as such has been reached. However, a number of things have been accomplished.

For instance, the distinguished Senator from Florida has indicated his accord with the chairman of the committee on the matter going forward, with hearings and markup in the Budget Committee. That is one thing that has been done.

Another is I have discussed with the minority leader and a number of other Senators the method by which I hope we can give every Senator an opportunity to offer proposals, debate them at length, and still preserve the opportunity to present a budget package as a coherent and interdependent goal. I am going to describe, Mr. President, in short form, what I have discussed with the minority leader on what I propose to do.

First, I say that the only element in this matter that is truly time-sensitive is the so-called small reconciliation bill, which is Calendar Order No. 501, H.R. 4169. If we do not pass that pretty soon, this month, maybe by the 14th of this month, savings that have already been enacted by the House in the amount of $14 million will not be achieved. That is time-sensitive. I hope we will pass that measure yet tonight.

In addition to that, Mr. President, I hope that we shall be permitted to take up a revenue measure which is on the calendar from the House of Representatives. It is H.R. 2163, Calendar Order No. 571, which is the Federal Boat Safety Act.

If Members want to know what Federal boat safety has to do with the budget, it will not escape their attention that that is a revenue measure that came over from the House of Representatives. I fully expect that an amendment to the Federal Boat Safety Act will be offered by the distinguished chairman of the Finance Committee and perhaps the distinguished ranking minority members, Senators DOLE and LONG, to the Federal Boat Safety Act. That will be subject to unlimited debate. It will not be subject to the restrictions of reconciliation. But, Mr. President, as I have also explained, after that measure is added, as I expect it will be added, to the Federal Boat Safety Act, then it will be the intention of the leadership to go forward with the Senate reconciliation bill as an amendment to the Federal Boat Safety Act.

Mr. President, I expect that either before we adopt the reconciliation amendment or after, the so-called appropriation caps will be offered, and

then the banking bill perhaps will be offered, and goodness knows what else. But when it is finished, the Federal Boat Safety Act will be carrying, I hope, a cargo of valuable commodities. I hope it will carry a budget package. I hope it will carry a revenue bill from the Finance Committee. I hope that it will carry a number of other things that together constitute an interdependent package of budget savings according to the way the Senate may work its bill.

I make that statement now, Mr. President, because I want Senators to understand where we are going next.

Mr. DOMENICI. Will you yield just for an observation?

Mr. BAKER. Yes.

Mr. DOMENICI. You have been talking awfully long. It seems like you are getting into boats and steamers. Is there still some more?

Mr. BYRD. Mr. President, I object to the Senator addressing the majority leader in the second person.

Mr. DOMENICI. I apologize.

Mr. BAKER. Mr. President, I am happy to be addressed in any way. I was afraid nobody would speak to me after I said all those things. I notice that one of my colleagues at least felt it necessary to leave the room. But I say all of that because I want Senators to understand why the leadership on this side is proceeding the way we are.

Now, Mr. President, I would like to ask—I am not now asking—to proceed with the first step, which is the small first concurrent reconciliation bill. If that is adopted—and I hope it will be—without amendment, without debate, or without any significant debate, then it would be the intention of the leadership on this side to ask the Senate to turn to the Boat Act. If we lay down that bill, it would be the intention of the leadership to ask us to go into a brief period for the transaction of routine morning business, and then to go out until Monday at 11 a.m.

That is the plan, Mr. President, unless somebody has something they want to say.

I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, we are now in the process of checking with all members of the Finance Committee, Democrats and Republicans. I do not know of any objection. The vote on this package was 20 to 0. Every Senator voted for the package, but we did have an agreement that before we brought the bill to the floor we would, either through a committee meeting or at least a check with each Member, make certain we had no further objection. We have now checked with eight Senators and eight have said they have no objeciton. I do not anticipate any objection, but before the boat bill is offered, I will want to get back to the majority leader to make sure there are no objections to proceeding that way from members of the Finance Committee.

Mr. BAKER. Very well.

OMIBUS BUDGET RECONCILIATION ACT OF 1983

Mr. BAKER. Mr. President, I ask the Chair lay before the Senate Calendar Order No. 501, H.R. 4169.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4169) to provide for reconciliation pursuant to Section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1984.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. BAKER. Now, Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I hope that someone will explain the contents of this bill.

Mr. BAKER. Mr. President, I designate the distinguished chairman of the Budget Committee to manage the time on this side.

Mr. BYRD. Mr. President, I designate Mr. CHILES to be in control of the time on this side.

Mr. DOMENICI. Mr. President, I was asked to explain what is in this reconciliation bill. It has been here for a while, since last year, and so let me, as quickly as I can, give the chronology and what is in it.

This is the unfinished business of last session, the so-called Omnibus Reconciliation Act of 1983, H.R. 4169.

I am hopeful, as the leader indicated in his remarks, that this is the first step we take over the next few weeks toward enacting further legislation to reduce the deficits. While I have concerns about particular provisions in H.R. 4169, I believe the Senate should quickly adopt this bill without amendments and send it to the President for his signature.

Let me briefly explain my reasoning for this position. H.R. 4169 passed the House of Representatives last October on a voice vote. The bill addresses a portion of the reconciliation spending savings for three committees, as instructed in the budget resolution for fiscal year 1984. The three committees in the House were the Post Office and Civil Service, the Small Business, and the Veterans' Affairs Committees. Similar instructions were given to the Senate Governmental Affairs, Small Business, and Veterans' Affairs Committees.

They were instructed to find savings of about $10.6 billion over the 3-year period, fiscal years 1984–86. Most of the savings were to be achieved through delays in cost-of-living adjustments—COLA's—for different pension programs and through delays and reductions in Federal pay raises.

Both the House and Senate committees reported legislation that—at the time they were reported—exceeded the instructions in the Senate and achieved 80 percent of the instructions in the House. Time has passed, and, quite frankly, if we do not act quickly on this bill, we will not be able to claim even a portion, if any, of the savings.

Both the House and Senate committees of jurisdiction reported changes in the COLA adjustment date for Federal civilian and military retirees. Under current law, the 1984 cost-of-living increases will be effective on May 1, and payable at the end of May for military retirees and at the beginning of June for civilian retirees. H.R. 4169 delays this COLA increase until January 1985 for civilians, and December 31, 1984 for military retirees. If we act by April 15, the COLA delay can be achieved without any administrative problems. If we delay until after April 15 and certainly after April 30, we will lose at least $1.1 billion in savings between now and next year when the next adjustment would occur. We must act now to achieve these savings, and I see no reason to delay.

Over the entire period fiscal year 1984–87, H.R. 4169 will result in deficit reductions of $8.2 billion. The policies embodied in H.R. 4169 are essentially the same as the policies in S. 2062 affecting retirement, civilian pay raises, and veterans.

We lose about $1.4 billion over the period fiscal year 1984–87 as a result of enacting H.R. 4169 and not the companion Senate measure covering these same areas. But, quite frankly, I do not believe the differences are so significant that we should jeopardize the real savings by amending the bill, spending time in conference, and then missing the April 15 deadline. At least, that is a possibility, and I see no reason to delay. Also, we may have an opportunity to get back some of these losses when S. 2062 is considered subsequently.

The main savings we lost result from the fact that the fiscal year 1984 Federal pay raise will be 4 percent retroactive to January 1, 1984, rather than the 3.5 percent pay raise now in effect. We also lose a provision permanently shifting future pay raise dates to January 1, but that can be corrected later, if it is the will of Congress.

We lose some savings on the Federal retirement COLA's but nothing on the policy involved. Federal retirement COLA's will be permanently shifted to the beginning of January—which is the major policy change we seek; but since H.R. 4169 does not move the military retirement pay date from the last day of the month to the first day of the following month, we lose the one-time accounting saving of having only 11 monthly military retirement checks in fiscal year 1985 that is contained in S. 2062. But if we wish, that can also be corrected later.

We lose nothing on the small business savings compared to S. 2062 if the administration enforces caps placed on SBA disaster lending. And we may gain by reinstating the provision requiring farmers to apply at FmHA for disaster assistance earlier than would otherwise be possible. Each day that passes without that provision costs us money.

We lose some money by granting veterans compensation recipients a 4.1 percent COLA in April 1984 instead of the 3.5 percent COLA enacted in a free standing bill, Public Law 98-223. But we actually estimate increased savings because H.R. 4169 assumes future compensation COLA increases in April of each year, whereas Public Law 98-223 includes sense of the Congress language that future increases be paid in January of each year.

Finally, H.R. 4169 requires the President to convene a domestic economic conference of deficits. I question whether this is useful, and I will not support a delay in further deficit reduction action on the argument that we must wait until this conference on the deficit reports. Enacting H.R. 4169 does not eliminate the need for continued immediate action on the deficit. We all know what has to be done. I doubt that any summit will suddenly give us new-found courage to do what needs to be done. I wish we had time, so that we would not have to include this provision, but I do not think we should risk a conference; and I recommend that we proceed as the majority leader has indicated. But this is not a serious flaw in H.R. 4169, considering the urgency of our present situation.

This is only the beginning. The committees of jurisdiction are to be congratulated on reporting legislation that will reduce the projected deficits by $8.2 billion. But, the size of the deficits clearly dictates that we need to do much more. I am confident the Senate will move shortly to take up the Senate reconciliation bill that will achieve much larger savings.

Mr. President, I ask unanimous consent that two tables be printed in the RECORD at this point, one comparing provisions of H.R. 4169 and S. 2062, and a second showing the savings of H.R. 4169 compared to the current CBO baseline.

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

COMPARISON H.R. 4169 AND S. 2062

	Current law	H.R. 4169 (as passed House) Oct. 25, 1983	S. 2062 (as reported in Senate) Nov. 4, 1983
Federal civilian and military retirement.	COLA becomes effective on May 1, 1984 (payable on June 1 for civilians and May 31 for military). COLA amount is computed on change in CPI between December 1982 and December 1983.	Changes effective date of COLA adjustment to Dec. 1 (payable on Jan. 1 for civilians and Dec. 31 for military). Established COLA computation period the same as social security computation period. (Permanent.).	Same, except that it moves military retirement pay date from last day of month (of effective month) to first day of following month.
Civilian pay raises	Pay raises for civil servants, Members of Congress, legislative staff, and others are effective October of each year based either on a comparability study or alternative plan submitted by the President. For fiscal year 1984 the alternative plan is operative. Fiscal year 1984 pay raises for white collar workers were 3.5 percent, delayed 3 mo to January 1984. Pay raises for blue collar workers were limited to 3.5 percent and delayed 90 days. Members of Congress received 3.5 percent delayed 3 mo to January 1984.	Changes pay raises from October 1983 to Jan. 1, 1984 and makes increase 4 percent, requiring retroactive payments to civil servants. Makes this a 1 time delay. Members of Congress would receive this pay increase.	Same, but makes this a permanent delay.[1]
Small Business Administration disaster assistance.	A 1980 reform provision expired on Oct. 1, 1983 that required farmers to seek agriculture disaster loans through the Farmers Home Administration (FmHA) before going to the SBA, unless they were declined (or would have been declined) loan assistance at substantially similar interest rates from the FmHA. Interest rates for SBA disaster loans are established under varying procedures. There are no funds authorized for nonphysical disaster loans (repealed in Omnibus Budget Reconciliation Act of 1981). There is no cap on the amount of physical disaster loans that can be made. Businesses, including those adversely affected by PIK and peso devaluations, can and do seek assistance through regular SBA business loan programs.	Extends reform through fiscal year 1986 to substantially remove SBA from agricultural disaster lending except as a lender of last resort. Also includes provisions to reduce interest rates on SBA disaster loans, which will allow farmers to borrow from the SBA up to authorized loan caps for fiscal year 1984–86. It will be up to the administration to enforce the loan caps. Expands the definition of businesses eligible for SBA disaster assistance, including those adversely affected by PIK and the peso devaluation.	Extends reform through fiscal year 1985 to eliminate farmer borrowing from SBA except as a lender of last resort. Does not include other provisions.
Veterans compensation	Provides 3.5 percent COLA on Apr. 1, 1984, for veterans receiving compensation benefits. Sense of the Congress language was adopted that future compensation COLA's after fiscal year 1984 shall take effect on Dec. 1 of the fiscal year involved. Provides payment of temporary compensation increases on the 1st day of the month for veterans whose hospital stays begin and end during the same month. This has the effect of making the period of payment in such cases the entire month in which the case was furnished. VA educational assistance allowances can be paid in advance	Provides 4.1 percent COLA adjustment on Apr. 1, 1984 for veterans receiving compensation benefits. Assumes future COLA's would be effective each April thereafter (payable in May).[2] Restores payment of temporary compensation increases for hospitalizations to date of admission through the end of the month during which hospitalizations ends. Terminates the advance payment of VA educational assistance allowances.	Caps veterans compensation COLA at an amount equal to 3.5 percent effective on Apr. 1, 1984.[2] includes language that future COLA's shall not take effect before Dec. 1, in 1984 and 1985.
Domestic economic conference on deficits.		Directs President to convene a summit conference to address projected deficits and develop a plan to reduce deficits. Conference would be convened no later than 45 days after enactment..	No comparable provision.

[1] Governmental Affairs intends to offer an amendment to make the pay raise reflect the actual 3.5-percent increase that became effective on Jan. 1, 1984.
[2] Passage of H.R. 4169 would overturn a 3.5-percent veterans compensation COLA enacted by the Congress and signed by the President on Mar. 2, 1984 (Public Law 98-223).

SUMMARY OF H.R. 4169—CHANGE FROM CBO BASELINE, REVISED APR. 4, 1984

[In millions of dollars]

	Fiscal year—				
	1984	1985	1986	1987	Total 1984–87
Title II—Post Office and Civil Service Committee:					
COLA delay:					
BA	−246	−6	−11	−11	−274
O	−485	−544	−1,016	−1,095	−3,140
Civilian pay raises:					
BA	+248	−376	−1,329	−2,559	−4,016
O	+249	−379	−1,342	−2,618	−4,090

SUMMARY OF H.R. 4169—CHANGE FROM CBO BASELINE, REVISED APR. 4, 1984—Continued

[In millions of dollars]

	Fiscal year—				
	1984	1985	1986	1987	Total 1984–87
Total title II:					
BA	+2	−382	−1,340	−2,570	−4,290
O	−236	−923	−2,358	−3,713	−7,230
Title III—Small Business Committee:					
SBA disaster loans:					
BA			−162	−258	−420
O	−114	−230	−201	−195	−740
Title IV; Veterans' Affairs Committee:					
Veterans compensation COLA:					
BA	+22	−90	−99	−101	−268
O	+18	−90	−99	−101	−272
Total, H.R. 4169 (change from CBO baseline):					
BA	+24	−472	−1,601	−2,929	−4,978
O	−332	−1,243	−2,658	−4,009	−8,242

Mr. CHILES. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. CHILES. Mr. President, I listened to the Senator's explanation, and I think it is correct, that this bill does save less than the Senate companion bill we had on the calendar.

I hope that by the fact that we are passing this bill tonight—and I think there is some purpose, as the Senator says, if this does not get bogged down, and I am not quite of the feeling that we could not get a conference next week and get that worked out—but I hope we are not waiving those savings by doing that, if we are going to try to pick it up. It is not easy to save a dollar around here. These are steps we have already taken, on which we have had votes in the Senate. In effect, the people who are going to be hit understand it.

Mr. DOMENICI. That is right.

Mr. CHILES. That has already happened, so I hope we will try to pick those up in the future.

Mr. DOMENICI. The Senator is correct. I cannot say that we are going to do that, but we have called that to the attention of the leadership here, and I am personally committed that, to the extent I am involved, we should be able to send to the House, in a subsequent reconciliation measure, most of the savings we are not going to get here.

Mr. CHILES. As to the veterans' portion, that is not just savings. There is substantial reform that has been passed after the House passed their revision. We are sort of undoing that reform. I think everybody understands that we are going to follow with a bill right after the passage of this measure in which we will reinstate that reform and get that done.

Mr. DOMENICI. The Senator is absolutely correct. The language of this reconciliation is last year's language. In the meantime, by a freestanding measure, we have saved significant money and prescribed a rather important reform. So nobody should object if, immediately upon passage of this reconciliation bill, we pass and send to the House a bill that quickly reinstates the freestanding reform we have already passed, which nobody objected to.

I thank Senator CHILES for bringing up that matter. We are going to try, with the leadership on both sides, to pass, immediately after reconciliation, such as a curative measure.

Mr. CHILES. There are also some problems with small business, and I guess we will try to work those out when the Senate reconciliation bill comes up.

Mr. DOMENICI. The Senator is correct.

Mr. CHILES. Maybe this is the last thing: Just so that Members do understand, there is a provision in the House bill that provided for a legislative pay raise. I do not want anybody to be unaware of that. We are talking about offering again a repealer of that, which will go with the veterans' matter and take place right after the passage of this bill, and that is something to which the leadership has agreed.

Mr. DOMENICI. The Senator is correct.

In talking with the majority leader, it is my understanding that both the reestablishment of the freestanding veterans' reform measure with another bill amending the reconciliation bill which we will have just passed will also be accompanied by another measure, a bill that will put the pay-raise situation back where it was but for the passage of the reconciliation bill containing the House language.

Mr. CHILES. I do not know whether some other Senators are like me. I do not like to give up $8 billion in savings but at the same time to vote against a bill that has a pay raise in it for me, but the worst thing I think we could do in here is in a reconciliation bill by raising our pay.

So I am casting that vote on the basis that I am going to get a chance and that we are going to pass immediately after a repealer of that pay so that it is clear that that is not our intent.

We are seeking the savings. We are not seeking to get a pay raise in this manner.

Mr. DOMENICI. I hope everyone who feels as the distinguished Senator from Florida, the Senator from New Mexico, and many other Senators do, will all understand this. Clearly, if anyone needs reassurance, we will ask the majority leader just before we vote to state two bills he intends to offer immediately hereafter, one on the veterans, and one on the pay as described.

I thank the Senator for the questions and for bringing up these very important matters.

Mr. WEICKER. Mr. President, the House Reconciliation bill, H.R. 4169, contains important budget reduction provisions that would cut the deficit by some $8.9 billion. Although we have much further to go, I applaud and support these provisions that cut into the deficit through COLA savings, rather than by cutting and eliminating programs for the needy which we all know have already borne too much of the burden in Congress budget-cutting efforts.

Yet, in our desire to act quickly and decisively to bring about these savings, it is important that every Member of this body understand the significance of passing H.R. 4169 intact. By adopting the small business provisions in title III of this bill, Congress, in the name of expediency, would be gutting major disaster lending reforms first implemented in 1977 in Public Law 96–302, and retained by this body in the Omnibus Reconciliation Act of 1981, Public Law 97–35. In essence these reforms insured that SBA was taken out of the farm disaster lending business which time and experience showed SBA should not have been in the first place. Title III of this bill not only puts SBA right back into farm disaster lending, it also reactivates certain nonphysical disaster lending programs that Congress specifically eliminated in the Reconciliation Act of 1981. To take such action is a major step backward.

First, the House bill would drastically reduce interest rates for physical disaster loans. Under current law, which would also be extended for 3 years in the House bill, as long as disaster lending interest rates at SBA and the Farmers Home Administration (FmHA) remain substantially similar, a farmer seeking assistance must first have applied for aid at FmHA, and be declined there before he could be eligible for assistance at SBA under its disaster loan program. By substantially lowering current interest rates at SBA, farmers will once again flock back into the program.

I think it important to recount for you some of the problems, and the huge cost of this program, after SBA was thrown into farm disaster lending back in 1977.

HISTORY OF SBA INVOLVEMENT IN FARM DISASTER LENDING

In July 1977, the SBA administratively determined that farmers suffering production crop losses were eligible for SBA disaster loans. At the time this ruling was made, FmHA had already been operating an agricultural disaster loan program for some years. As a result of this ruling, SBA's disaster loan volume increased from $200 million in 1977 to $2.5 billion in fiscal year 1978, primarily due to crop disaster loans. FmHA disaster loans also

rose from $1.2 billion in fiscal year 1977 to $3.4 billion in 1978.

To explain the reasons behind this enormous spending increase, and to provide guidance to Congress in designing a disaster policy that would be both responsive to the needs of agricultural disaster victims and yet fiscally prudent, the General Accounting Office (GAO) was requested to conduct an audit of the fiscal year 1978 operations of the SBA and FmHA programs, and assess whether SBA had administered this program properly.

The GAO report concluded that SBA's staff was inexperienced in agricultural matters and lacked the expertise to properly administer a farm disaster lending program. In contrast, GAO pointed out that FmHA had over 2,300 field offices located throughout the United States whose primary purpose is to assist agricultural enterprises.

The GAO report also noted the fundamental difference between crop losses due to drought, and losses to physical property such as a factory, destroyed in a hurricane or flood. In agriculture, crop yields routinely vary from year to year due to weather conditions or other ordinary reasons. The GAO evaluation showed that FmHA took such normal variation into account in determining disaster aid through its requirement that a minimum crop loss be incurred before a farmer is eligible for assistance. The SBA program, however, had no such requirement and treated physical property losses and crop production losses almost identically. Furthermore, FmHA looked at total farm income in computing loan amounts, because, while a farm may have lower-than-normal production in one crop, that could be offset by higher-than-average production in another crop. SBA did not consider this factor when computing losses under its program.

GAO also found that the average size of SBA loans was almost 20 percent greater, and the average maturity about 13 percent longer, than the average FmHA loan. GAO concluded that these differences were due, in part, to less stringent SBA lending requirements.

The GAO auditors also found that the existence of duplicative programs at the two agencies had created opportunities for abuse and fraud. First, loan applicants were able to apply to both agencies and shop for the best or largest loan. Second, and worse, GAO auditors found numerous cases in which applicants fraudulently estimated higher losses and more acres planted when they applied for SBA loans than when they applied for FmHA loans. In addition, GAO uncovered examples of borrowers who fraudulently obtained loans from both SBA and FmHA for the same disaster loss.

GAO concluded that the overall effect was to substantially increase the cost of agricultural disaster lending above what it would have been if FmHA alone had administered the program.

In 1980, Congress addressed the question of farmer eligibility at SBA through provisions incorporated in Public Law 96-302. The primary purpose of these reforms was to substantially remove SBA from any significant involvement in agricultural disaster lending, while at the same time insuring that no agricultural enterprises currently eligible for disaster assistance from the Federal Government would be denied such assistance.

Public Law 96-302 provided that as long as the SBA and FmHA program had "substantially similar" interest rates and terms for disaster assistance, a farmer seeking assistance must have first applied for aid at the FmHA and be declined there before he could be eligible for assistance at SBA under its disaster loan program.

The net result of the reforms adopted in Public Law 96-302 is that SBA has been almost totally removed from farm disaster lending and FmHA has once again assumed primary responsibility for that function.

To insure that the compromise adopted in 1980 in Public Law 96-302 was not altered, Congress, in the Omnibus Reconciliation Act of 1981 (Public Law 97-35), maintained SBA's disaster interest rates at a level substantially similar to the disaster interest rates at FmHA. The Senate and House Small Business and Agriculture Committees coordinated their conference negotiations closely to insure that comparable proposals would be adopted. Congress acted quickly to ratify this action. Had substantially similar interest rates between the two agencies not been maintained, SBA would again have been right back into major farm disaster lending.

COMMITTEE HEARINGS

In the last Congress, the committee held hearings on SBA's administration of the farm disaster lending program. The purpose of these hearings was to further examine the extent and gravity of problems encountered during SBA's involvement in agricultural disaster lending, and to determine whether special collection efforts should be instituted to recoup Government money which SBA had paid out improperly.

The committee's investigation, which was supported by audits and findings of the SBA Inspector General and the committee's hearings, showed that virtually millions of dollars had been improperly paid out by SBA while administering this program. Some farmers used money earmarked for crop replacement or debt repayment to finance such items as a refurbished home, investments in high-interest bearing certificates of deposits, and other expenses unrelated to farm disaster losses. The Inspector General's audits also showed that some borrowers illegally received duplicate loans and Federal grants from SBA and FmHA for identical losses.

The committee's hearings demonstrated further that these problems occurred in part because of SBA's lack of expertise to administer this specialized program and because borrowers were frequently able to take advantage of the program due to loose administrative and management procedures. The hearings confirmed that a program at SBA which was intended to assist those who suffered very serious and real losses due to extreme weather conditions was abused; that Federal dollars were mishandled; and that during a time of severe budget restraints, the Government had the opportunity to collect millions of dollars in misused funds from these borrowers. The hearings also clearly reaffirmed the wisdom of Congress action in removing SBA from farm disaster lending.

This Congress, the committee again held a hearing to receive the views of the Administrators of SBA and FmHA on the effectiveness of the reforms in agricultural disaster lending since the enactment of Public Law 96-302 and to get their assessment of pending legislation, S. 628, that would maintain the reforms adopted in Public Law 96-302. This legislation was subsequently reported out of the Small Business Committee to the Budget Committee and is contained in title III of the Senate's reconciliation bill, S. 2062. To acquire the expertise would constitute duplication, waste, and mismanagement of scarce public resources, he said. As he put it, "I simply believe that SBA should be out of the agricultural lending business entirely. We should leave agricultural lending to the Department of Agriculture."

With respect to disaster loans, Sanders testified that SBA had made two farm disaster loans in the past year. He explained that even with substantially similar interest rates in place at the two agencies, SBA still had the authority to make loans to groups that are, by statutory definition, ineligible at FmHA. These groups include aliens, corporations, partnerships, and cooperatives that are not primarily engaged in farming, and farmers who do not operate their own farms, according to Sanders.

In response to questions from the committee, Sanders also indicated that there have been no complaints from the agricultural community as a result of SBA's withdrawal from agricultural disaster lending. Furthermore, he noted that the agricultural community as a whole expects the Department of

Agriculture, not SBA, to provide the services to farmers.

With respect to SBA business loans to agricultural enterprises, Sanders noted that there is a memorandum of understanding between SBA and FmHA that sets forth the policy of the two agencies in encouraging agricultural enterprises to first apply to FmHA before coming to SBA for a business loan. As a result, only 20 nondisaster business loans have been made to farmers over the past year, according to Sanders. Sanders concluded that the system currently in place has been effective in controlling the problems of the past, as well as virtually eliminating the duplication of lending activities between the two agencies.

Sanders said it was his feeling that the passage of legislation continuing the 1980 reforms was important to maintaining the efficiency of SBA's operations.

FmHA Administrator Charles Shuman also agreed that the reforms contained in Public Law 96-302, and subsequently reinforced by the Omnibus Reconciliation Act of 1981, were sound and should be continued. He, therefore, supported passage of the legislation, as well. In doing so, he emphasized that the reforms adopted by Congress have eliminated a great deal of confusion and public criticism engendered by the old system, under which agricultural enterprises afflicted with weather disaster could shop for loan assistance between two Federal agencies. He attributed this to each agency using differing loanmaking and servicing regulations, and, for a limited time, differing interest rates.

In urging the Small Business Committee to maintain the reforms already adopted, Shuman indicated that there are compelling reasons to keep FmHA as the primary Federal lender in the agricultural area. These include:

A delivery system that serves every rural county through some 2,300 county, district, and State offices. Accordingly, no matter where a need arises, a permanent, staffed Farmers Home office is available; in contrast, SBA is organized for different purposes with fewer than 100 offices, and those located primarily in urban areas.

Highly trained, qualified personnel at FmHA. The majority of FmHA county supervisors have degrees in agriculture. They are backed by trained farm chiefs in each of 46 State offices, and a section of the national office specifically responsible for farm emergency loans; and both Shuman and Sanders agreed that the current statutory provisions governing farmer eligibility for farm-disaster-related aid, and the relationship between SBA and FmHA, is not only working, but working well.

Mr. President, based upon the Small Business Committee's extensive review of this program, and in accordance with the reconciliation instruction included in section 3(d) of House Concurrent Resolution 91, section 301(b) of the Congressional Budget Act, the Small Business Committee reported recommendations to the Budget Committee which achieved savings of $139 million in budget authority and $287 million in outlays in fiscal year 1984; $555 million in budget authority and $466 million in outlays in fiscal year 1985; and $544 million in budget authority and $443 million in outlays in fiscal year 1986.

This was done simply by extending the reforms Congress first implemented in Public Law 96-302.

The only way that the House was able to not only lower disaster lending interest rates, but also create two new nonphysical disaster lending programs assisting businesses injured as a result of the Government's PIK program and peso devaluation, was by placing an artifical cap of $500 million per year on physical disaster loans and $100 million per year cap on nonphysical disaster loans. These caps, when interpreted in their true light would in no way limit Government expenditures because Congress has always appropriated whatever amounts are necessary to meet the total demand for disaster loans. Once such authorizations are enacted, they function as quasi entitlements. Any authorization ceiling only operates as a temporary experiment and enables the House provisions to come within the technical rules of budget reconciliation, and would have no effectiveness whatsoever in limiting Government spending.

With the lowering of interest rates in the House bill, CBO conservatively estimates this would increase SBA's disaster lending to farmers by $300-$400 million per year.

With regard to reauthorizing the nonphysical disaster loan program, the House bill creates two new programs and places a $100 million cap on the program. Yet to take such action makes little sense since the demand for these combined programs is potentially in the billions.

With regard to the program to assist businesses harmed as a result of the PIK or a successor program, CBO has conservatively estimated that the demand for this program is likely to be closer to $1.5 billion and could be as high as $3.6 billion.

With regard to the subsidized loan program to assist businesses harmed as a result of the peso devaluation, SBA conservatively estimates that these loans would likely run into the hundreds of million dollars.

One must ask how SBA could be expected to administer a program where the demand for funds is 36 times the supply. Either the $100 million cap will be swept away for cheap loans, or SBA will be confronted with major administrative problems. For Congress to put SBA in this position is, in the judgment of this Senator, a major mistake. And this is exactly what will happen if title III of H.R. 4169 is passed and enacted into law.

EQUITY IN SMALL BUSINESS DISASTER LOANS

Mr. BENTSEN. Mr. President, I am pleased that this bill includes the substance of legislation which I have introduced to correct a discriminatory situation involving eligibility for Small Business Administration disaster loans. This legislation will make a minor change in the Small Business Act in order to require the Small Business Administration to treat small agricultural cooperatives just like any other small business with regards to eligibility for economic injury disaster loans. In addition, this bill will also make small businesses eligible for this EIDL assistance as a result of the Government's payment-in-kind program, which in many rural areas was just as devastating as a drought or other natural disaster to small businesses.

It has come to my attention that under the Small Business Administration's section 7(b)(2) loan program, the economic injury disaster loan program, there are instances in which a small business cannot qualify for this loan program simply because it is organized as a cooperative rather than a corporation.

The SBA requires, as a condition for eligibility for these loans, that the small business corporation meet SBA's size standards. This requires documentation through submission of SBA's form 355. In addition the officers and directors of the corporation must also meet SBA's size standards and must submit form 355's to show that they are small businesses.

However, in the case of a cooperative, SBA requires that each member of the cooperative submit a form 355 to show that they are a small business. There is no requirement that each stockholder or customer of the corporation submit a form 355 and qualify as a small business. This is clearly discriminatory, and for no good reason.

This discrimination is not just an inconvenience. It effectively bars the cooperative from any eligibility for an SBA disaster loan. To illustrate this, consider the case of a cotton gin in the Texas Panhandle. Much of this area has qualified for 7(b)(2) disaster assistance from SBA because of the severe weather which inflicted massive damage on the crops in the region in recent years.

This cotton gin has 25 farmers who are members and who gin their cotton there. These 25 farmers own part of their farmland and rent part of it through the crop-share leases which are standard in the area. Under a crop-share lease the landlord gets part of the crop, and, of course, the landlord's

share is also ginned at that gin. Let us assume that a total of 50 landlords are involved. Let us also assume that the gin has three officers and two directors.

If this gin is organized as a corporation with each farmer owning an equal share, then the corporation and the five officers and directors would all have to qualify as small businesses under the SBA standards and would have to submit form 355's to prove it.

If the gin is organized as a cooperative, then the cooperative, all 25 farmers, and the 50 landlords—who would all have to be members of the cooperative—would have to meet SBA size standards and submit form 355's to prove it. In reality it would be impossible to get all of these, especially absentee landlords, to fill out the form 355 with its detailed financial information.

These unreasonable requirements are affecting all types of agricultural cooperatives. West Texas cotton gins who had drought and PIK-related losses have so far been denied disaster loans. Rio Grande Valley fruit co-ops who were devastated by the recent freeze are facing the same refusals if this legislation is not passed into law.

The problem has arisen because of SBA regulations, not because of legal requirements, but SBA has refused to change their interpretation and end this discrimination. Thus we must correct this inequity through legislation.

Mr. President, I see no justification at all for this discrimination, and I urge passage of this corrective legislation.

● Mr. LEVIN. Mr. President, it is absurd that the Senate is asked today to make a choice between apparent pay increase for Members of Congress and reducing the deficit by $8 billion over the next 3 years. But that is exactly the position in which Members of the Senate were put in by this vote on the Omnibus Reconciliation Act of 1983.

However, in light of the Senate's action earlier today to repeal this pay increase in anticipation of the passage of this reconciliation bill, and in light of my personal conversation with the majority leader in which he indicated that his soundings over on the House side with staff at the Speaker's office suggested that our bill repealing the pay increase would probably pass the House. I decided that it was possible to focus on the major aspect of this legislation, which is deficit reduction.

The deficit crisis before us—which will eventually lead to higher interest rates and higher unemployment unless addressed—is too important to be ignored, nor can the measures to deal with that crisis be ignored either. While it is true that $8 billion in deficit reduction over 3 years would not solve the deficit problem, it is just as true that unless we are willing to take step after step like this, then the deficit problem will never be solved.●

OPPOSITION TO DELAYING MILITARY AND CIVIL SERVICE RETIREMENT COST-OF-LIVING ADJUSTMENTS

Mr. HOLLINGS. Mr. President, I am opposing this delay in military and civil service retirement cost-of-living adjustments for one major reason—it is a continuation of this administration's unfair attempt to balance the budget on the backs of the retirees and the public servants.

No one has worked harder for a balanced budget than I have. I have voted for the constitutional amendment to balance the budget and for the past 3 years I have offered a comprehensive plan to freeze Federal spending and taxes.

But where the President and I part company is on the issue of fairness. My budget freeze proposal is harsh medicine because we face terminal illness—$200 billion deficits for as far as the eye can see. But where I propose a shared sacrifice, asking all of our citizens to live within the budget they received last year, the President continues his selective assault. He has plenty of money for wasteful Pentagon programs and tax cuts for the Orange County crowd but not enough to fulfill our established commitment to the retirees. That is simply malarkey and is the same unfair policy that got us into this deficit dilemma to start with.

I am sure that the retiree would go along with an across-the-board freeze on spending because the retiree knows as well as anyone else that we must reduce the deficit now. Our economic survival and perhaps our very ability to govern is threatened. And, the retiree knows that a freeze is fair. Everyone and every program is asked to sacrifice equally. And if State and local government, unions, businesses, and families have all been able to freeze their spending in order to live within their means, why cannot we here in Washington do the same?

Mr. President, I might also mention that while there is still room for reform in our Federal pension programs, the military and civil service retirement programs have been significantly altered over the last 7 years. In 1977, the 1-percent kicker was eliminated and in 1980 the look-back provision was repealed. In addition, semiannual cost-of-living adjustments were reduced to only one increase per year in 1981. And, 2 years ago the COLA for retirees under age 62 was cut back.

I was not in total agreement with nor did I vote for all of those changes. But the record in clear—the Federal retiree has more than borne his fair share of budget cuts and the Federal pension program has been through a serious series of reforms.

Yet, if we continue to play politics, to selectively blame the civil servant for the deficit, and to slash pay and retirement, we will serve only to drive the best and brightest out of Government service. And what will that achieve? Nothing in the long run other than a demoralized work force that is less efficient and less effective.

Mr. President, Federal spending can and must be brought under control. But this bill is not the way to do it.

● Mr. PELL. Mr. President, I very much regret that we are confronted with the alternatives posed by H.R. 4169. I am no less eager than any Member of this body to achieve savings, reduce expenditures, and diminish the deficit. But to do so in the context of legislation that also provides a retroactive pay increase for Members of the Senate while delaying COLA's for Federal retirees is totally unacceptable. Such an action can only be seen for what it is; namely, an irreconcilable conflict in both the letter and spirit of fiscal responsiblity. Hopefully we will be able to make up the difference in the more comprehensive budget package that we will shortly consider.●

● Mr. BIDEN. Mr. President, because of my complete opposition to the adoption of a legislative pay increase, I am voting against the House-passed H.R. 4169.

I voted against H.R. 4169 with some reluctances because it contains $8.2 billion in deficit reduction items that I support. As my colleagues may be aware, I am cosponsoring a budget freeze that will reduce deficits in fiscal year 1985 by $39 billion. Most of the deficit reductions in H.R. 4169 are consistent with the objectives of my budget freeze and I would like to see them become law.

However, I felt that it was important to register my opposition to a pay increase for Senators. The Senate has already adopted a bill that would reverse the pay increase action, however, we have no guarantee that the House of Representatives will act on that measure. I hope that it will be enacted into law promptly.●

COLA DEFERRAL

● Mr. WARNER. Mr. President, I find myself to be in an extremely awkward position on this legislation. I have publicly stated my opposition to further delaying cost-of-living increases for military and Federal retirees, who are being asked in this measure to accept the longest delay of any COLA recipient.

I have written to the chairmen of the appropriate Senate committees requesting a separate vote on this matter when the Senate version of the bill, S. 2062, was to come to the Senate floor. I ask that the text of my letter be printed at this point in the RECORD.

The letter referred to follows:

U.S. SENATE,
Washington, D.C. April 3, 1984.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I commend your hard work in coming up with a proposed deficit reduction package. There are certainly tough decisions contained in this proposal, and I know we all must share in the responsibility to start a trend to reduce the deficit.

However, there is one area in which I, respectfully but strongly, disagree. It is with a strong sense of urgency that I am contacting you today on behalf of our nation's 3,286,000 federal and military retirees.

As you are aware, Section 301, P.L:. 97-253, the Omnibus Budget Reconciliation Act of 1982, provided for a three-year phased deferral in awarding civil service and military retiree cost-of-living adjustments (COLAs).

Three consecutive thirteen month COLA intervals are consistent with the need for budget savings in all areas of government, and I request your support in providing an opportunity for the Senate to vote separately on whether these stepped deferrals remain in place.

The alternative which has been proposed in the fiscal year 1984 budget reconciliation bill, S. 2062, to further delay the June 1984 COLA until January 1985, will result in what I believe to be an unfair waiting period for federal and military pensioners.

It is my request that the portion of the Fiscal Year 1984 Budget Reconciliation package dealing with this matter be reported to the floor as a separate committee amendment. In this way, the Senate as a whole could consider the federal and military retiree COLA issue based on its own merits.

Having served the federal government in the military, as a civilian, and as two department heads, I feel a special bond to our retirees who have served with the promise of certain retirement pay as a portion of their earnings. It is our obligation to these retirees that the budget does not get balanced disproportionately at their expense.

The Senate just unanimously approved legislation creating a Civil Service Review Commission, which is to evaluate all pending proposals with respect to the civil service package—pay, retirement, other benefits, RIF regulations, etc., and weigh as well as balance these proposals to insure a quality federal workforce. And yet, S. 2062 proposes another drastic deferral of civilian retirement and disability cost of living adjustment.

Many of the current military retirees are World War II vets who served with low pay but with promises of single source retirement benefits adjusted for inflation. Yet S. 2062 mandates these retirees must accept yet another deferral of COLA's.

I hope you will at least agree to allow the seriousness of this additional COLA delay, resulting in twenty months without any adjustment for these senior citizens, to be considered separately by the Senate.

I recognize, support and praise the significant progress which has been made in curtailing high inflation rates, which is indeed the cruelest tax to those living on fixed incomes. However, onerous and continued across-the-board losses in income security take place in those areas to which retirees are particularly vulnerable: housing, food prices and medical costs. Consequently, once they have fallen behind, many retirees may permanently lose their ability to maintain their standard of living.

The June 1 COLA date is now less than sixty days away, a period which I regard as the absolute minimum in terms of reasonable notice. The eleventh hour on this issue is upon us, and I sincerely hope that you will share in my determination to see this matter effectively debated and decided by the Senate.

Sincerely,

JOHN W. WARNER.

Mr. President, I now find that H.R. 4169, the House version, is before this body and that Senate bill S. 2062 will not be considered. A decision has been made by the leadership that no amendments are to be offered on this bill.

Without the opportunity of having a separate vote on the portion I oppose, I must therefore reach a difficult decision. According to information from the House, H.R. 4169 will provide a budget savings of $10.3 billion over the next 3 years.

In the interest of fiscal responsibility and the enormity of the almost $200 billion Federal deficit, I cannot vote against the major portion of the savings represented in this measure, despite my opposition to the COLA deferral.

Had I had the opportunity to vote separately on the COLA deferral, I would have certainly voted, and urged my colleagues to vote, against what adds up to a 20-month delay of adjustment for these retired senior citizens.●

The PRESIDING OFFICER. Is there further debate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. The yeas and nays have been ordered on final passage.

Mr. DOMENICI. I am prepared, if the distinguished Senator from Florida is prepared, to yield back my time so that we can vote.

Mr. CHILES. I yield back my time.

Mr. DOMENICI. I yield back any time I might have.

The PRESIDING OFFICER. All time has been yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed in explanation of the matter I am about to deal with for not more than 1 minute.

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

Mr. BAKER. Mr. President, as I announced earlier, after the passage of the reconciliation bill, it was the intention of the leadership to call up a separate bill which would deal with the repeal of the 4-percent pay cap provision and also to deal, I believe I said, with a small veterans matter; maybe I did not. But that needs to be dealt with.

It occurs to me that it might be just as well to temporarily set aside the present measure and pass this repealer before we go on to the reconciliation bill.

Could I inquire of the minority leader if he would object if I ask unanimous consent to temporarily lay aside the pending measure, which is the reconciliation bill, and to offer this bill for immediate consideration?

Mr. BYRD. As I understand it, the bill that the distinguished majority leader is about to introduce deals with the congressional pay raise only?

Mr. BAKER. No; it deals with the pay raise and the veterans matter, both of which ought to be taken care of.

Mr. BYRD. I have no objection.

Mr. BAKER. I thank the Senator.

REPEALING CERTAIN PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1983

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate temporarily set aside the pending measure and proceed to the consideration of the bill which I now send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The bill clerk read as follows:

A bill (S. 2539) to repeal certain provisions of the Omnibus Budget Reconciliation Act of 1983.

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

(a) Effective September 30, 1983, title IV of the Omnibus Budget Reconciliation Act of 1983 is repealed.

(b) Effective January 1, 1984, section 202 of the Omnibus Budget Reconciliation Act of 1983 is repealed, relating to the pay of Federal employees.

REPEAL OF SECTION 202 OF THE OMNIBUS BUDGET RECONCILIATION ACT (PAY RAISES)

Mr. DOMENICI. Mr. President, this provision would restore the pay raises to current law. The current law provides 3.5-percent pay increases for all white-collar Federal employees, and caps blue-collar pay raises at 3.5 percent. All Federal employees are delayed 3 months, to January 1, 1984, for white-collar workers, and 90 days after their usual effective date for blue-collar workers.

Mr. President, I believe this is a fair and reasonable provision. H.R. 4169 would have created unequal treatment for certain blue-collar employees. This provision will insure that all Federal employees are treated fairly and equally. It will not cause any hardship for the Federal worker because it will not change their current pay status.

This version from last October will cost $52 million more than Public Law 98-223.

This version, if enacted, will supersede Public Law 98-223 and cause the VA an administrative nightmare: Compensation checks with COLA's increased by 3.5 percent are being prepared now to be received by disabled veterans May 1. Title IV would make the increases 4.1 percent—the VA would have to reissue all the checks.

The 4.1 percent is more than Veterans' expected to receive and more than the Congress expected to expend. It was an estimated figure used before the social security COLA increase was known to be 3.5 percent. Compensation COLA increases have traditionally been kept in line with social security COLA increases.

Several other smaller provisions in the bill were improved upon during the conferencing of Public Law 98-223 and are preferable as they are currently enacted.

Mr. President, I support the repeal of section 202 and recommend its passage.

The PRESIDING OFFICER. If there are no amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I would like the record to show that I voted in favor of the bill to repeal the increase in congressional pay. It would be entirely inappropriate to raise our pay on a bill where we are supposed to be reducing the deficit.

OMNIBUS BUDGET RECONCILIATION ACT OF 1983

Mr. BAKER. Mr. President, the business before the Senate recurs as the reconciliation bill, is that correct?

The PRESIDING OFFICER. That is correct.

The Senate resumed consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

If there be no amendments to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART) and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that the Senator from North Dakota (Mr. BURDICK) and the Senator from Arizona (Mr. DECONCINI) are absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 67, nays 26, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—67

Abdnor	Hatch	Nunn
Armstrong	Hatfield	Packwood
Baker	Hawkins	Percy
Bentsen	Hecht	Pressler
Bingaman	Heinz	Proxmire
Boschwitz	Helms	Quayle
Chafee	Humphrey	Randolph
Chiles	Inouye	Roth
Cochran	Jepsen	Rudman
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
Denton	Laxalt	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
Durenberger	Mattingly	Trible
East	McClure	Tsongas
Evans	Melcher	Wallop
Garn	Metzenbaum	Warner
Glenn	Moynihan	Wilson
Gorton	Murkowski	
Grassley	Nickles	

NAYS—26

Baucus	Exon	Mitchell
Biden	Ford	Pell
Boren	Heflin	Pryor
Bradley	Hollings	Riegle
Bumpers	Johnston	Sarbanes
Byrd	Kennedy	Sasser
Cohen	Lautenberg	Weicker
Cranston	Long	Zorinsky
Eagleton	Matsunaga	

NOT VOTING—7

Andrews	Goldwater	Stafford
Burdick	Hart	
DeConcini	Huddleston	

So the bill (H.R. 4169) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on table was agreed to.

● Mr. CHILES. Mr. President, I would like to have the record show that I voted to repeal the section of the reconciliation bill which would have raised congressional pay. It would have been entirely inappropriate to raise congressional pay in a bill to reduce the deficit. Now that the repeal has passed, I will vote for the reconciliation bill to make the $8 billion in savings we need to reduce the deficit.●

● Mr. MELCHER. Mr. President, I would also like the record to show that I voted to repeal the section of the reconciliation bill which would have raised congressional pay.

It would not have been appropriate to raise congressional pay in a bill to reduce the deficit. Now that the repeal has passed, I will vote for the bill to reduce the Federal deficit by $8 billion in savings.●

● Mr. GLENN. Mr. President, I would like the record to show that I voted in favor of the bill to repeal the pay section of H.R. 4169, which would have had the effect of raising congressional pay. It would be entirely inappropriate to raise our own pay in a bill where we are trying to reduce the deficit. I voted to pass the bill in order to secure the $8 billion of savings it achieves in other areas.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, if I may have the attention of Members, in my description before of the procedure, I indicated that at this point, it would be the hope of the leadership that we could lay down but not act in any way on the Federal Boat Safety Act. Mr. President, I now ask that the Chair lay before the Senate Calendar Order No. 571, H.R. 2163.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BAKER. Mr. President, it is my hope that that request will remain before the Senate. I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MISCELLANEOUS TARIFF TRADE AND CUSTOMS MATTERS

Mr. BAKER. Mr. President, there is a request now pending, I believe, that the Senate turn to consideration of the Federal boat safety bill. I have conferred with the minority leader who, I believe, is indicating that he no longer must object to that action.

Mr. BYRD. Mr. President, I have no objection. I had no objection to begin with; I was merely trying to clear the request on my side of the aisle.

Mr. BAKER. Mr. President, I renew my request.

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

The clerk will state the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2163) to amend the Federal Boat Safety Act of 1971, and for other purposes.

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

SECTION 1. EQUAL AND EQUITABLE CLASSIFICATION AND DUTY RATES FOR VARIOUS CORDAGE PRODUCTS OF VIRTUALLY IDENTICAL CHARACTERISTICS.

(a) IN GENERAL.—Part 2 of schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting "plastics or man-made materials," immediately after "assemblages of textile fiber or yarns," in headnote 1(a); and

(2) by inserting ", plastics or other man-made materials" immediate after "Of man-made fibers" in the superior heading to items 316.55 and 316.58.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the enactment of this Act.

SEC. 2. LIKE AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—Paragraph (10) of section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new sentence: "An agricultural product shall also be considered a like product if—

"(A) it is at an earlier state of processing than the imported article; and

"(B) the imported article is at an intermediate state of processing prior to its final consumption.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the fifteenth day on or after the date of the enactment of this Act.

SEC. 3. FISH NETTING AND NETS.

(a) IN GENERAL.—The headnotes for subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding at the end thereof the following new headnote:

"(3) For purposes of item 905.30—

"(a) The term 'restricted amount' means, with respect to the 12-month period beginning on April 1 of any calendar year, the greater of—

"(A) 1,750,000 pounds, or

"(B) 28.5 percent of the aggregate apparent United States consumption of such netting and nets during the calendar year preceding such calendar year.

"(b) On or before April 1 of each calendar year (beginning with 1984), the International Trade Commission shall determine the aggregate apparent United States consumption of fish netting and fish nets, in pounds, during the preceding calendar year, shall report such determination to the secretary of the Treasury and the Secretary of Commerce, and shall publish such determination in the Federal Register.".

(b) RATE OF DUTY.—Subpart B of part 1 of such Appendix is amended by inserting in numerical sequence the following new item:

"905.30	Fish netting and fishing nets (including sections thereof), of textile materials (provided for in item 355.45 of part 4C, schedule 3) not over the restricted amount entered during the 12-month period beginning April 1 of any calendar year.	17% ad val.	No change	On or before 1/1/89".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption on or after the fifteenth day after the date of the enactment of this Act.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction oF routine morning business not past 7 p.m. in which Senators may speak.

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a number of things in the folder that appear to be clear for action by unanimous consent.

I inquire of the minority leader first if he is in a position to proceed to the consideration of Calendar Order No. 705, H.R. 4206.

Mr. BYRD. Mr. President, will the distinguished majority leader lay out all of the work? I have a gentleman waiting in my office. He has been waiting for an hour.

Mr. BAKER. Mr. President, I would like to take up and pass by unanimous consent three bills: Calendar Order Nos. 705, 741, and 742. One of them, 742, is a House joint resolution.

In addition, I would like permission to receive and refer, Mr. President, until Monday, the 9th, and to permit committees to file reports on Friday between the hours of 9 and 5.

I would like to proceed to the consideration, Mr. President, of a conference report on the Defense Production Act and to adopt that conference report, and then, Mr. President, to take up another bill, Calendar Order No. 706, together with the accompanying budget waiver, which is Senate Resolution 356, and pass both the budget waiver and the bill; next, Mr. President, to proceed to another bill, H.R. 2751, together with an amendment to that bill, and then to pass the bill. And finally, Mr. President, to take up two matters on today's Executive Calendar, which are nominations numbered 514 and 538.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

All the legislative items the majority leader has enumerated have been cleared on this side of the aisle. I am in the process of clearing the two items on the Executive Calendar.

On the Executive Calendar, this side is ready to go forward with Calendar Order No. 538 but not with Calendar Order No. 514.

Mr. BAKER. I thank the Senator.

Mr. President, there is one other matter that has been handed to me as well, and that is a request to discharge the Judiciary Committee from consideration of House Joint Resolution 407.

Mr. BYRD. Mr. President, there is no objection to any of the items that the majority leader has mentioned with the one exception to which I have called attention, that being Calendar Order No. 514 on the Executive Calendar.

Mr. BAKER. I thank the Senator.

Mr. President, I will proceed through those if the Senator does not mind, and I assure him that no other action will be taken, except the request to recess until Monday.

Mr. BYRD. Mr. President, there is no objection to any of the items the majority leader has enumerated, with the one exception I have already stated, that being on the Executive Calendar.

Mr. BAKER. I thank the minority leader.

INCOME TAXES OF CERTAIN MILITARY AND CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS

Mr. BAKER. Mr. President, in view of the clearances just acknowledged by the minority leader, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 705, H.R. 4206.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4206) to amend the Internal Revenue Code of 1954 to exempt from Federal income taxes certain military and civilian employees of the United States dying as a result of injuries sustained overseas.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, today I urge passage of H.R. 4206, which would provide special income tax rules for certain individuals who die in active service as a member of the Armed Forces of the United States or as a civilian employee of the Government of the United States. This has been discussed with the senior Senator from Alaska (Mr. STEVENS) and I thank him for his cooperation in this matter.

THE SACRIFICES OF OUR GOVERNMENT SERVANTS

Recent events in Lebanon and Grenada have illustrated the sacrifices that military and civilian employees of the U.S. Government must be prepared to make when they serve abroad. This is particularly true when these individuals provide our country with the ultimate sacrifice—their lives.

DESCRIPTION OF THE BILL

H.R. 4206 provides one small way in which we can compensate the families of these individuals. Generally, the bill provides income tax relief for these families in particular circumstances. Relief would be provided for the family of an individual who dies while in active service as a member of the Armed Forces of the United States or while in the civilian employment of the United States and if the death occurs as a result of wounds or injuries incurred outside the United States in response to a terroristic or military action. In such a case, no Federal income tax will apply for income earned either in the year of death or for an earlier period beginning with the last year ending before the year in which wounds or injuries were incurred. The bill will apply to men and women who meet the requirements stated therein and who die, or have died, after December 31, 1979.

CIRCUMSTANCES IN WHICH THE BILL WILL APPLY

There are several circumstances in which this bill is intended to apply. It is to apply to military or civilian employees who die, or who have died, as a result of the bombing of the U.S. Embassy or of the U.S. Marine headquarters in Beirut, Lebanon. Similarly, the bill will apply with respect to U.S. personnel participating in a U.N. peacekeeping force when killed in Lebanon by land mines or snipers in 1982 or 1983, or thereafter. The bill also applies with respect to the U.S. service personnel who died as a result of the Government's attempt to rescue the American hostages in Iran, since that rescue attempt constituted a military action involving U.S. Armed Forces within the meaning of the bill. The bill also is to apply to U.S. service personnel who died, or who have died, in a military action in Grenada.

Because of the need to accommodate the families of these individuals who may be filing tax returns shortly, the Senate Finance Committee expedited the consideration and reporting of this bill. I urge my colleagues in the Senate also to support the bill and its quick passage.

Mr. PRYOR. Mr. President, the legislation we are considering here today is fair, reasonable, humane, and overdue.

H.R. 4206 would simply exempt from taxation the income earned by U.S. military or civilian employees who lose their lives as the result of hostilities while serving overseas.

The exemption would apply to income earned during the year of death and the previous year.

Senator ARMSTRONG deserves a great deal of credit for introducing a similar Senate bill, S. 2083, which I was proud to cosponsor.

Mr. President, there is already an exemption in the Tax Code which applies to those who die as a result of injury suffered in an area designated as a "combat zone." But that "combat zone" designation has not been officially applied to situations like the tragic bombing of Marine quarters in Beirut, our activities in Grenada, the death of the U.S. administrator of the Sinai peacekeeping forces or several other incidents that resulted in the deaths of U.S. personnel. This bill would extend coverage to any U.S. soldier or civilian Government employee who meets death by terroristic or military action while overseas.

This legislation is retroactive to apply to circumstances from 1979 forward. Families would have a year to file to recover taxes already paid.

As representatives of the most powerful Nation in the world, U.S. personnel are especially tempting targets for swaggering terrorists and irrational fanatics, and as the rate of terrorism increases so, unfortunately, does the need for this legislation.

Nothing we do in the Congress could ever make up for the pain and sacrifice of these U.S. citizens and their families. All of us who witnessed the line of flag-draped coffins at Dover Air Force Base shared the pain of the Beirut bombing, but the families of those victims—and the victims of Grenada and Iran—are still living with that pain every day. This bill is intended to make their sacrifice a little easier to bear.

Besides providing these families with some extra money in their months of adjustment, H.R. 4206 would remove the added burden of the sometimes complex paperwork involved in filing a return. Above all, it seems only fair to make this gesture to those who gave their lives in service to our country.

We need to act quickly on this matter since the Federal income tax filing deadline is only 10 days away. The administration strongly supports this effort, and I hope we will approve this bill unanimously today.

Mr. ARMSTRONG. Mr. President, in the aftermath of the massacre of U.S. Marines in Lebanon and those soldiers who have lost their lives in Grenada, we are all painfully aware of how little we as a nation can do to relieve the anguish of the families who have lost their loved ones in hostile action overseas. There is, however, one small way in which we can perhaps relieve at least a part of the economic hardship to those families which can result from their loss.

Section 692 of the IRS Code provides for an exemption from Federal income taxes of any income earned by a deceased member of the armed services during the years he or she served overseas. However, this section is applicable only when the death was a result of "wounds, disease or injury" while serving in a "combat zone" which had already been defined as a combat zone by an executive order of the President.

No such combat zone has been so designated since the Vietnam war.

Today the Senate will consider, and ultimately pass, legislation I have introduced to extend this tax exemption to all members of the armed services who die as a result of hostile action overseas. This bill makes the change retroactively so that it will apply to all service men or women killed overseas in the tax years beginning after December 31, 1979. It will also apply to all cases in the future where American soldiers die as a result of hostile action—thereby eliminating the need for a President to designate a specific area as a combat zone for the purpose of applying this section of the Tax Code.

Certainly this is a small way, but perhaps an important one, in which we can tell the families of our service men and women that we will not allow our tax laws to add to the loss they already feel.

I commend Senator ROBERT DOLE, Finance Committee chairman, for swiftly shepherding this bill though the committee and the Senate. I also commend Representative BILL ARCHER for developing this legislation, and getting the bill adopted by the House of Representatives.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN G. FARY TOWER

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 741, H.R. 4202.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4202) to designate the air traffic control tower at Midway Airport, Chicago, as the "John G. Fary Tower".

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being on objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATION DAY, USA

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 742, House Joint Resolution 520.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 520) designating April 13, 1984, as "Education Day, U.S.A.".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

The premable was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT AMENDMENTS OF 1983

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2751.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2751) to amend the National Foundation on the Arts and Humanities Act of 1965 and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2901

(Purpose: To authorize the Secretary of the Interior to enter into an agreement relating to Indian art at the College of Santa Fe, and other related matters)

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. DOMENICI, proposes an amendment numbered 2901.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, beginning with line 25, strike out all through line 14 on page 9 and insert in lieu thereof the following:

SEC. 14. (a) (1) To the extent of the availability of funds for such purpose, the Secretary of the Interior shall:

(A) enter into a thirty-year agreement with the College of Santa Fe, Santa Fe, New Mexico, to provide educational facilities for the use of, and to develop cooperative educational/arts programs to be carried out with the postsecondary fine arts and museum services programs of, the Institute of American Indian Arts administered by the Bureau of Indian Affairs; and

(B) conduct such activities as are necessary to improve the facilities used by the Institute of American Indian Arts at the College of Santa Fe.

(2) The provisions of this subsection shall take effect on October 1, 1984.

(b)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs, is directed to conduct a study for the purpose of determining the need, if any, for a museum facility to be established for the benefit of the Institute of American Indian Arts, the feasibility of establishing such museum, and the need for desirability, if any, to establish any such museum in close proximity to the facilities currently being used by such Institute at the College of Santa Fe.

(2) On or before February 1, 1985, the Secretary of the Interior shall report the results of such study, together with his recommendations, to the Congress.

(3) Should the study recommend establishment of a museum, and should the College of Santa Fe be selected as the best site, any agreement entered into by the Secretary of the Interior for construction of such museum shall contain assurances, satisfactory to the Secretary, that appropriate lands at the College of Santa Fe will be available at no cost to the Federal Government for the establishment of a museum facility.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2901) was agreed to.

Mr. STAFFORD. Mr. President, the Senate is considering today H.R. 2751, the National Foundation on the Arts and the Humanities Act Amendments of 1983. This legislation addresses these issues. The first is the need to bring the authorization ceilings for the arts and humanities endowments in line with the actual funding levels set by the Appropriations Committees in the last 2 years. The second issue is to formally transfer authority for the Institute of Museum Services from the Department of Education to the National Foundation on the Arts and the Humanities, another action already taken by the Appropriations committees. The third is the creation of a national medal of arts, to be given by the President upon the recommendation of the National Council on the Arts. Awards are to be made to those who have specifically contributed to excellence in the arts.

Mr. President, this important bill will go a long way in clarifying inconsistencies between authorizing statute, and legislative mandates made by the Congress through the appropriations process. It is not in any way meant to replace the formal reauthorization process for the arts and humanities endowments which the Congress will begin next year. As chairman of the Senate Education, Arts and Humanities Subcommittee, I look forward to working at that time with my ranking member, Senator CLAIBORNE PELL, and interested Members of the Senate, as we oversee activities of the endowments for the last 5 years. However, the issues I outlined earlier did need to be addressed before the reauthorization will take place, and so we are considering this bill today, largely because of the hard work of Congressmen SIMON and COLEMAN who are, respectfully, the chairman and ranking member of the House Postsecondary Subcommittee.

Mr. COLEMAN offered the amendment to establish a national medal of arts, and in his statement to the House outlines the purpose of this program. I would like to add to his remarks by stating that this legislation is not intended in any way to impinge on the already established and widely acclaimed Kennedy Center honors program. Given by our National Cultural Center on behalf of all our citizens, the honors have, with the participation of the President, recognized the career contributions of our country's leading performing artists since 1978.

While the Kennedy Center honors recognize performing artists, the proposed medal of arts will recognize all those who contribute to excellence in the arts, including philanthropic patrons and institutions in the private sector. It is my understanding Mr. Hodsoll, Chairman of the Arts Endowment will be coordinating implementation of this program with the Kennedy Center board of trustees in order to avoid any potential conflict that might

diminish either of these worthy programs.

In closing, I want to also acknowledge Frank Hodsoll's contributions on this bill. He has worked hard to see it be made a reality and deserves a great deal of credit for his interest in the establishment of the national medal of arts program. Mr. President, I commend H.R. 2751 to my colleagues and ask for its immediate consideration.

Mr. PELL. Mr. President, I express my support for H.R. 2751, known as the National Foundation on the Arts and Humanities Act Amendments of 1983. As the original sponsor of the legislation that established the twin endowments in 1965, I have had a long and happy relationship with these agencies for almost 20 years and have particularly enjoyed working with my colleague Senator STAFFORD who now chairs the Subcommittee on Education, Arts and Humanities.

H.R. 2751 makes a number of technical changes in the Museum Services Act of 1976 and the National Foundation on the Arts and Humanities Act of 1965. Though the Institute of Museum Services was transferred to its current independent status alongside the Arts and Humanities Endowments by action of the Appropriations Committees in 1982 and 1983, the authorizing legislation was not updated until now. The Institute now occupies an appropriate position as the third jewel in the crown of Federal arts support programs. It is especially gratifying to me to note that the Institute has a budget of $20.1 million for this fiscal year which is almost double the amount it had the previous year. Our Nation's museums will be able to use these funds to continue serving their audience as effectively as possible. I am also pleased that the Institute is initiating a program of grants for museum conservation projects. This important new direction is being taken thanks to the superlative efforts of Congressman SID YATES who has done as much as anyone in advancing Federal support for culture in our country.

The legislation also contains a technical amendment that will raise the authorized ceilings for fiscal year 1984 so that these figures more closely conform to the amounts that were actually appropriated earlier this year.

Perhaps the most important section of this legislation establishes a national medal of arts that will be awarded from time to time by the President to artists or patrons who have contributed in exemplary ways to the arts in the United States. This medal is in no way meant to detract from the current Kennedy Center honors which are presented to performing artists in an annual ceremony at the Kennedy Center. The National Council on the Arts will make recommendations to the President as to recipients for the national medal of arts and it is expected that corporate entities as well as individuals will be considered for this new award.

It is a pleasure for me to join with my colleague from Vermont (Senator STAFFORD) in urging the adoption of this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, it is the intention of the leadership on this side to proceed next to the consideration of H.R. 4835. But before doing so, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 734, Senate Resolution 356, the budget waiver to accompany that measure.

The PRESIDING OFFICER. The resolution will be stated by title. The assistant legislative clerk read as follows:

A resolution (S. Res. 356) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4835.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4835, a bill to authorize appropriations for the funding for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow, Poland. Such a waiver is necessary to allow the authorization of $10,000,000 in additional budget authority for fiscal year 1984 for equipping and furnishing the outpatient facility, for improving medical equipment at the American Children's Hospital in Krakow, Poland, and for providing medical supplies to Poland through private and voluntary agencies.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1983, deadline, because of the death of the honoree after May 15, 1983.

The desired authorization will not delay the appropriations process and will need to be accommodated in a supplemental appropriation.

CLEMENT J. ZABLOCKI MEMORIAL OUTPATIENT FACILITY

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4835, which is the subject of the budget waiver.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4835) to authorize funding for the Clement J. Zablocki Memorial Outpatient Facility at the American Children's Hospital in Krakow, Poland.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PERCY. Mr. President, there could be no more fitting memorial for the late Clem Zablocki than this children's outpatient medical facility in Poland. In 1964 Congressman Zablocki was instrumental in the founding of the American Children's Hospital in Krakow in southern Poland. That hospital has since become an outstanding symbol of the friendship of the American and Polish peoples. It is widely considered the best hospital in Poland. Last year it treated 5,000 inpatients, and its outpatient programs reached many more—some 50,000 children. The hospital's outpatient facilities have long been overtaxed. The Clement J. Zablocki Memorial Outpatient Facility will fill a real need.

Construction of the outpatient facility will be financed by Polish currencies held by the United States in Poland. This memorial bill also authorizes $10 million, of which $3 million will be used to furnish and equip the outpatient facility. Much of that equipment will be American, benefitting American workers and industries. The same will be true of another $3 million used to improve the medical equipment throughout the rest of the Krakow American Children's Hospital.

Finally, $4 million is authorized to provide American drugs and medical supplies throughout Poland through private and voluntary organizations.

Mr. President, this is a memorial Clem Zablocki would have loved. It is an outstanding example of the U.S. policy of providing humanitarian aid to the Polish people through small, specific projects.

I am proud to be associated with this legislation.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1984—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 1852 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1852) to extend the expiration date of the Defense Production Act of 1950, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

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

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PLACE SENATE CONCURRENT RESOLUTION 102 ON CALENDAR

Mr. BAKER. Mr. President, I ask unanimous consent that when the distinguished Senator from Wyoming, the chairman of the Veterans' Committee, may submit a concurrent resolution that it be placed on the calendar by unanimous consent.

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

CORRECTION IN ENROLLMENT OF H.R. 4169

Mr. SIMPSON. Mr. President, I introduce on behalf of myself and the Senator from California (Mr. CRANSTON) a concurrent resolution to make a technical correction in the enrollment of H.R. 4169 with the understanding from the leadership that this resolution will be taken up as the first item of business on Monday and I ask unanimous consent that the text of the resolution be printed in the RECORD.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I simply wish to qualify the first item of business after we resume the consideration of the pending business, which will be the Finance Committee amendment, which is anticipated will be offered by the Senator from Kansas and the Senator from Louisiana. But it is the intention of the leadership to take this up as the first item of business in the routine business in morning business, and I wish to say that just for the clarification of the RECORD.

Mr. SIMPSON. Mr. President, I thank the majority leader for his cooperation and assistance. It is very appreciated.

Mr. BAKER. Mr. President, I thank the Senator from Wyoming who brought the matter to our attention, and we are grateful to him for his prompt action in this respect.

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

The resolution is as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 4169, the Clerk of the House of Representatives is directed to "strike title IV."

ORDERS DURING THE RECESS OF THE SENATE

PERMISSION TO RECEIVE AND REFER

Mr. BAKER. Mr. President, next I ask unanimous consent during the recess of the Senate over until Monday, April 9, 1984, the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives and that they be appropriately referred and that the Vice President and the President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. BAKER. I also ask unanimous consent that committees be authorized to file reports on tomorrow Friday, April 6, 1984, between the hours of 9 a.m. and 5 p.m. notwithstanding that the Senate will not be in session.

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

ORDER FOR DISCHARGE FROM COMMITTEE OF HOUSE JOINT RESOLUTION 407

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 407, a joint resolution designating the week beginning April 4, 1984, as "National Hearing Impaired Awareness Week," and that the matter be placed on the calendar.

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

Mr. BAKER. Mr. President, that completes the legislative business that has been cleared for action by unanimous consent and pursuant to the clearance given by the minority leader prior to his departure from the Chamber on necessary business.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate go into executive session for the purpose of considering one nomination, that is Calendar Order No. 538, the nomination of Donald D. Engen, of Virginia, to be Administrator of the FAA.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF TRANSPORTATION

The assistant legislative clerk read the nomination of Donald D. Engen, of Virginia, to be Administrator of the Federal Aviation Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I now ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

THE PROPOSED AMENDMENT BY THE COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, as I indicated earlier in a colloquy with the distinguished Senator from Wyoming and in my brief statement prior to the adoption of the reconciliation bill today, it is the intention of the leadership on this side, as the first action to be taken on Monday after we resume consideration of the pending business—that is, the Boat Safety Act—to anticipate that the chairman and ranking member of the Finance Committee will offer the Finance Committee bill reported by them as an amendment to this measure.

Mr. President, that is an extensive undertaking by the Finance Committee, running through several hundred pages. And since Members should have access to that document at the time we begin debate on that measure, I

wonder if the distinguished managers would like to ask at this time that the document be printed and made available to Members on Monday.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BAKER. Yes; I yield.

Mr. DOLE. Mr. President, the Senator is correct. There are 1,334 pages. I suggest if it might be submitted for printing in the RECORD that way, it would be available to Members on Monday at the time we propose to offer it, myself and the distinguished Senator from Louisiana.

I would also say for the record that we have now contacted each of the 20 members of the Senate Finance Committee. We had promised the Members that we would have another meeting and report out a bill or an amendment. That will not now be necessary. Each of the 20 has agreed we may proceed in the fashion outlined earlier by the distinguished majority leader. So on Monday the distinguished Senator from Louisiana, Senator LONG, and myself will offer the amendment at that time.

Mr. BAKER. Mr. President, I understand the Senator does ask unanimous consent that the documents now in his hand be printed in today's RECORD; is that correct?

Mr. LONG. Yes; Mr. President, if the Senator would yield, the committee, as I understand it, is on record for the amendment. This matter has been discussed within the committee with the understanding that, in view of the fact that a revenue bill must originate in the House, it cannot originate in the Senate, the bill will have to be offered as an amendment to a House-passed bill. That is how the distinguished chairman of the committee proposes to offer it and I will be pleased to join as a cosponsor of the amendment.

We have not had the opportunity to have the committee meet and offer their bill. But the two Senators have a right to simply offer the amendment under our own sponsorship and at such point as other members of the committee see fit to come aboard, they can join us as cosponsors.

Mr. DOLE. But I would say to my colleague that we have advised each member on what we propose to do and they all agreed that this was satisfactory.

Mr. LONG. Yes.

Mr. DOLE. So they know it will be offered on the boat safety bill and they have no objection and that is why I thought we might have it printed in the RECORD.

Mr. LONG. I am pleased to have that information. I thank the Senator.

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

Mr. BAKER. Mr. President, has the request been granted?

The PRESIDING OFFICER. The request has been granted.

Mr. BAKER. So the request that the document be printed in today's RECORD has been granted?

The PRESIDING OFFICER. The Senator is correct.

(The text of the proposed amendment is printed later in today's RECORD under "Amendments Submitted.")

ORDERS FOR MONDAY

ORDER FOR RECESS UNTIL MONDAY, APRIL 9, 1984 AT 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on Monday next.

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

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON MONDAY, APRIL 9, 1984

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order on Monday, three Senators be recognized on special orders of not to exceed 15 minutes each as follows: Senators KASTEN, MURKOWSKI, and PROXMIRE.

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

ORDER FOR ROUTINE MORNING BUSINESS ON MONDAY, APRIL 9, 1984

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders, there be a period for the transaction of routine morning business until not beyond the hour of 1 p.m. in which Senators may speak for not more than 5 minutes each.

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

PROGRAM

Mr. BAKER. Mr. President, on Monday, the Senate will convene at 11 a.m. After the recognition of the two leaders under the standing order, three Senators will be recognized on special orders to be followed by a period for transaction of routine morning business until the hour of 1 p.m.

At 1 p.m., the Senate will resume consideration of H.R. 2163, the act to amend the Federal Boat Safety Act of 1971. After the measure is laid down, it is anticipated that the chairman and ranking member of the Finance Committee will first offer an amendment, which is the bill reported by the Finance Committee.

Mr. President, next week will be a busy week. But I hope that we can finish our work in time to enjoy the benefits of the Easter recess, which begins on Thursday or Friday, depending on progress we are able to make.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Labor and Human Resources.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives was delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4072. An act to make adjustments in the commodity programs for wheat, feedgrains, upland cotton, and rice to provide agricultural credit assistance, and for other purposes; and

S. 2392. An act to authorize the President to appoint Donald D. Engen to the Office of Administrator of the Federal Aviation Administration.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary reported that on today, April 5, 1984, he had presented to the President of the United States the following enrolled bill:

S. 2392. An act to authorize the President to appoint Donald D. Engen to the Office of Administrator of the Federal Aviation Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1989: A bill for the relief of Vladimir Victorovich Yakimetz (Rept. No. 98-378).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 4201: A bill to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 466: A joint resolution designating May 1984 as "Older Americans Month."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 87: A joint resolution designating a day of remembrance for victims of genocide.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 143: A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning with Sunday, June 3, 1984, as "National Garden Week."

S.J. Res. 248: A joint resolution designating August 21, 1984, as "Hawaii Statehood Silver Jubilee Day."

S.J. Res. 266: A joint resolution designating the week beginning April 8, 1984, as "National Hearing Impaired Awareness Week."

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 2413. A bill to recognize the organization known as the American Gold Star Mothers, Inc. (Rept. No. 98-379).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DENTON:

S. 2533. A bill to amend the National Labor Relations Act to remove the requirement that individual employees join and pay dues and fees to labor organizations, to strengthen the remedies imposed against labor organizations which commit unfair labor practices involving violence, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 2534. A bill for the relief of Pedro Narvaez-Guajardo and Rosario Bernal de Narvaez; to the Committee on the Judiciary.

By Mr. GOLDWATER:

S. 2535. A bill to provide authorization of appropriations for activities of the National Telecommunications and Information Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. PERCY:

S. 2536. A bill to amend the Federal Water Pollution Control Act to authorize the Environmental Protection Agency to undertake a study on consumptive uses of Great Lakes water; to the Committee on Environment and Public Works.

By Mr. DANFORTH (for himself and Mr. PACKWOOD):

S. 2537. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PACKWOOD:

S. 2538. A bill to consolidate and authorize certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAKER:

S. 2539. A bill to repeal certain provisions of the Omnibus Budget Reconciliation Act of 1983; considered and passed.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2540. A bill to amend the Age Discrimination in Employment Act of 1967 to exclude from the operation of such Act matters relating to the age at which individuals may be hired, or discharged from employment, as firefighters and law enforcement officers by States and political subdivisions of States; to the Committee on Labor and Human Resources.

By Mr. MELCHER:

S. 2541. A bill for the relief of David and Cecilia Pang; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMPSON (for himself and Mr. CRANSTON):

S. Con. Res. 102. A concurrent resolution to correct the enrollment of H.R. 4169, placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DENTON:

S. 2533. A bill to amend the National Labor Relations Act to remove the requirement that individual employees join and pay dues and fees to labor organizations, to strengthen the remedies imposed against labor organizations which commit unfair labor practices involving violence, and for other purposes; to the Committee on Labor and Human Resources.

WORKER'S FREEDOM OF CHOICE ACT

Mr. DENTON. Mr. President, today I am introducing the Workers Freedom of Choice Act to extend to all Americans the right to join, or to refrain from joining, labor organizations. Some of my colleagues may express astonishment that such a right is not already guaranteed in a land that prides itself on its devotion to individual liberty. Unfortunately, a serious imbalance in Federal labor law has led to widespread abuse of the constitutional right of workers to refrain from association with unions.

The root of the problem is contained in some extremely deceptive language in the National Labor Relations Act, the law that governs private sector labor relations in the United States.

Section 7 of the NLRA states that employees "* * * shall have the right to self-organization, to form or assist labor organizations, to bargain collectively through representatives of their own choosing * * *". I wholeheartedly agree with that basic freedom.

Section 7 also says, however, that workers shall have the right to refrain from joining unions "* * * except to the extent that such right may be affected by an agreement requiring union membership as a condition of employment * * *".

Under sections 8 and 9, the nature of the exception is made abundantly clear. If a union achieves majority status in a bargaining unit, section 9 empowers the union to strip individual workers of their right to bargain directly with their employer. Once a union has acquired that power, it has the legal right under section 8 to forge a contract with the employer that requires employees to join or pay dues to the union as a condition of employment.

Thus, in a classic case of doublespeak, the NLRA affirms the right of employees to join unions while denying them the right to refrain from joining unions. Now, I ask my colleagues in the Senate, what kind of "rights" are those?

The late Senator Everett Dirksen described that legislative trickery well: "Having thus recognized the right to organize workers into unions as part of the protected freedom of association under the first amendment, it must follow that the right not to join is a necessary corollary of the right to join, for without a right not to join there can be no such thing as a right to join. Freedom rests on choice, and where choice is denied freedom is destroyed as well."

There is one bright spot about the free choice of workers. Section 14(b) of the NLRA authorizes individual States to outlaw compulsory unionism within their borders. So far 20 States, including my home State of Alabama, have elected to do so. Many Alabamians cherish their right-to-work law. It has served as a bulwark of the constitutional freedoms for which Alabamians have fought throughout their illustrious history.

Unfortunately, even with the delegation of authority to individual States, the underlying premise of Federal labor law continues to be the forced unionization of employees. As long as that situation exists, no worker can feel entirely secure in the exercise of his constitutional rights. Recent attempts by certain interests to destroy Alabama's right-to-work law have convinced me that a national worker's bill of rights is necessary.

The rationale for attacking our right to work law is no less deceptive than the doublespeak in the NLRA. In Alabama, workers cannot be forced to join or pay dues to a union. Our right to work law notwithstanding, section 9 of the NLRA grants officials of unions with a majority status in a bargaining unit the right to be the exclusive representative of all employees in collective bargaining of contracts. That section effectively deprives individuals of their bargaining rights, even in right to work States.

Union officials, whose predecessors fought tooth and nail in 1935 to include the exclusive representation power in the NLRA, are now claiming that nonunion members should be forced to pay for union bargaining services. It is a "burden," they say, to bargain for the "free riders."

It is curious that union officials should fight so vigorously for the "burden" of representing people who do not want the union to bargain for

them, but then demand that those unwilling workers be forced to pay for the unwanted bargaining "services."

To correct those inequities, my bill would delete the closed shop and forced dues agreements authorized in sections 7 and 8. It would also ban compulsory union hiring halls in the building and construction industry which discriminate against nonunion members. The bill would amend section 9 to protect the right of individual workers to bargain directly with their employers. If union officials truly believe the NLRA has forced upon them a duty to provide bargaining services for nonunion members who do not pay union dues, they should welcome my legislation.

As an added protection for the individual worker against coercion, my bill would stiffen the penalties under section 8(b) for unfair labor practices involving the use of violence by union agents against workers. Employers are already subject to backpay penalties when they engage in unfair and coercive labor practices. The bill would make it clear that unions face the same sort of penalties.

I must emphasize that my legislation would leave intact those provisions of the NLRA that protect the free choice of workers to organize and support unions. I merely wish to extend the same protections to workers who would rather bargain directly with their employers. I believe that policy would be beneficial both for workers who choose unions and for individual employees who bargain directly with their employers.

Mr. President, I see the legislation as a vehicle to provide individual employees with the opportunity to protect their own best interests in accordance with the unique characteristics of their own employment situation. As one result, we would promote unions that exercise true democratic principles and that can devote their full effort to protecting the rights of the workers to whom they have an obligation, those workers, and only those workers who are voluntary union members and supporters.

I urge my colleagues to cosponsor the Worker's Freedom of Choice Act.

I ask unanimous consent that the text of the Worker's Freedom of Choice Act be printed in the RECORD.

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

S. 2533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Worker's Freedom of Choice Act".

MEMBERSHIP IN LABOR ORGANIZATIONS

SEC. 2. (a) Section 7 of the National Labor Relations Act (29 U.S.C. 157) is amended by striking out "except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3)".

(b) Section 8(a)(3) of such Act (29 U.S.C. 158(a)(3)) is amended by striking out ": *Provided,* That" and all that follows through the semicolon at the end thereof and inserting in lieu thereof a semicolon.

(c) Section 8(b)(2) of such Act (29 U.S.C. 158(b)(2)) is amended by striking out "or to discriminate" and all that follows through the semicolon at the end thereof and inserting in lieu thereof a semicolon.

(d)(1) Section 8(b) of such Act (19 U.S.C. 158(b)) is amended—

(A) by striking out paragraph (5); and

(B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2)(A) The last sentence of section 8(b) of such Act (29 U.S.C. 158(b)) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (6)".

(B) Section 10(1) of such Act (29 U.S.C. 160(1)) is amended by striking out "section 8(b)(7)" each place it appears in the first sentence and the second proviso of the third sentence and inserting in lieu thereof "section 8(b)(6)".

(e) Section 8(f) of such Act (29 U.S.C. 158(f)) is amended—

(1) by striking out clause (2);

(2) by redesignating clauses (3) and (4) as clauses (2) and (3), respectively; and

(3) by striking out "That nothing" and all that follows through "*further,*"

(f) Section 9 (a) of such Act (29 U.S.C. 159(a)) is amended—

(1) by striking out "Representatives" and inserting in lieu thereof "(1) Except as provided in paragraph (2), representatives"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this Act or any collective-bargaining contract or agreement, an individual employee may elect to enter into an individual contract of employment directly with an employer, and administer such contract, without the intervention of the bargaining representative.".

(g)(1) Section 9 of such Act (29 U.S.C. 159) is amended by striking out subsection (e).

(2)(A) The second sentence of section 3(b) of such Act (29 U.S.C. 153(b)) is amended by striking out "or (e)".

(B) The last proviso of section 8(f) of such Act (29 U.S.C. 158(f)) is amended by striking out "or 9(e)".

(h) Section 19 of such Act (29 U.S.C. 169) is repealed.

PREVENTION OF UNFAIR LABOR PRACTICES INVOLVING VIOLENCE

SEC. 3. Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case in which the Board determines that a labor organization has committed an unfair labor practice under section 8 which involves violence against an individual, the Board shall enter an order under paragraph (1) which includes an award of backpay in an amount equal to one and one-half the individual's wage rate at the time of the unfair labor practice for the period of time lost by reason of the unfair labor practice, less the wages the individual has earned during such period.".

By Mr. BENTSEN:

S. 2534. A bill for the relief of Pedro Narvaez-Guajardo and Rosario Bernal de Narvaez; to the Committee on the Judiciary.

RELIEF OF PEDRO NARVAEZ-GUAJARDO AND ROSARIO BERNAL DE NARVAEZ

● Mr. BENTSEN. Mr. President, I am introducing a bill on behalf of the Narvaez family of San Antonio. My distinguished colleague in the House, Congressman HENRY B. GONZALEZ, has introduced identical legislation—H.R. 4888.

Pedro and Rosario Narvaez, entered the United States illegally 18 years ago. Since that time they have worked to support themselves and their children in their own successful painting and contracting company. The older children of the Narvaez are or will soon be permanent U.S. residents while their two minor children are U.S. citizens by birth. If the Narvaez are deported, they will be separated from all of their children.

The Narvaez company has 16 employees and the Narvaez have contributed regularly to both social security and Federal income tax. Their outstanding moral character has never been in question. Members of the San Antonio business community as well as Roman Catholic Archbishop Patricio Flores have attested in writing as to the moral caliber of the Narvaez family.

The Narvaez have exhausted all of their administrative remedies and are subject to deportation on April 6, 1984. I will shortly request of the Senate Immigration Subcommittee to ask for a report on my bill in order to stay the Narvaez deportation.●

By Mr. PERCY:

S. 2536. A bill to amend the Federal Water Pollution Control Act to authorize the Environmental Protection Agency to undertake a study on consumptive uses of Great Lakes water; to the Committee on Environment and Public Works.

STUDY OF CONSUMPTIVE USES OF GREAT LAKES WATER

Mr. PERCY. Mr. President, I am today introducing legislation which would direct the Administrator of the Environmental Protection Agency to conduct a thorough study of consumptive uses of Great Lakes water.

As last summer's drought showed us in vivid terms, water is the resource issue of the 1980's. Water is precious. For Illinois and the rest of the Great Lakes States, it is the single most valuable resource we have.

The Council of Great Lakes Governors has been calling attention to the water issue for some time and should be commended. Last week, the council met in Washington with members of the various congressional delegations, and I am very pleased that I was able to attend.

One of the main topics at the Governors' meeting was that of Great Lakes water quality and the allied issues of water consumption, diversion, and commerce. The council has formulated positions on diversion of Great Lakes water and on consumption studies. Last year, I introduced legislation, S. 2026, which would prohibit the diversion of Great Lakes water outside the region without the express consent of the Great Lakes States and the International Joint Commission. S. 2026, which followed a resolution passed by the Great Lakes Governors and Premiers in 1982, would also prohibit federally funded studies of such diversions.

The consumptive use bill which I introduce today also flows from a resolution passed by the Council of Great Lakes Governors. Along with the diversion legislation, it represents, I think, a growing awareness of the importance of the Great Lakes to the region as both an environmental and an economic resource.

At first glance, the Great Lakes seem to offer a limitless source of clean water capable of meeting all the needs—both now and into the future—of the eight Great Lakes States and Ontario. However, a recent study by the International Joint Commission of the United States and Canada has indicated that future consumptive uses will put a serious strain on the ability of the Great Lakes system to maintain adequate water levels. If water levels and flows were to fall substantially, severe impacts will be felt by both the Great Lakes ecosystem and the regional economy.

The combined detrimental effects on fish and wildlife habitats, outdoor recreation and tourism, navigation and power interests could result in a net economic loss to the region in excess of $200 million by the year 2035 if present consumption patterns continue.

The legislation I am introducing today would try to address this potentially grave situation. It would amend title I of the Clean Water Act to authorize the expenditure of $4.5 million for the EPA to study water consumption in the Great Lakes. It would also direct the EPA to undertake an evaluation of methods which could be used to control water consumption in the Great Lakes without adversely affecting economic growth in the future.

A consumptive use is a withdrawal of water from a hydrologic system which is not returned to that system. Consumptive use does not mean that water is being wasted; rather, it includes water which is assimilated by animals, plants, and humans, water which is evaporated from the Great Lakes, and water which is incorporated into products during manufacture.

This latter category of industrial consumption is particularly worrisome. Production of goods and services in the Great Lakes region is expected to continue to grow rapidly. By the year 2035, it is projected that water consumption by the manufacturing and thermal power generation industries alone will account for 84 percent of all consumptive use in the lakes.

The legislation I am introducing is identical to that introduced by Congressman LIPINSKI of Illinois, and I urge my colleagues to support it. The Great Lakes are indeed a treasure for our region. But if we do not learn how to control consumption—which is expected to increase fivefold in the next 50 years—the lakes region and, indeed, the entire country will face grave consequences in the future.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD, along with the text of a background paper published by the Council of Great Lakes Governors entitled, "Great Lakes Water Consumptive Uses and Diversions."

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

S. 2536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title I of the Federal Water Pollution Control Act is amended by adding at the end thereof the following section:

"GREAT LAKES CONSUMPTIVE USES STUDY

"SEC. 117. (a) In recognition of the serious impacts that are expected to occur to the Great Lakes environment as a result of a projected fivefold increase in consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries such as navigation and hydropower, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Administrator, in cooperation with other interested departments, agencies and instrumentalities of the Federal Government and the eight Great Lakes States and their political subdivisions, is authorized to conduct a study of all possible control measures which might be implemented to reduce the quantity of Great Lakes water consumed without adversely affecting projected economic growth of the Great Lakes region.

"(b) The study shall include an analysis of existing and emerging technologies which may be feasible in the foreseeable future in providing consumptive use control, and shall at a minimum include the following:

"(1) A review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables such as population projections, forecasts of power consumption, energy conservation and recycling efficiencies.

"(2) An analysis of the impact of enforcement of other sections of this Act relating to thermal discharges which has contributed to the trend for thermal electric generating plants to incorporate closed cycle cooling systems which consume great quantities of Great Lakes water. This analysis shall include a discussion of the environmental and economic impacts associated with verious types of cooling systems for thermal electric generating plants.

"(3) An analysis of the impact of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing.

"(4) An analysis of the economic impacts on consuming industries and on other Great Lakes interests associated with particular consumptive use control strategies.

"(5) An analysis of associated environmental impacts of particular consumptive use control strategies, both singularly and in combination with other consumptive use control strategies.

"(6) A summary discussion containing recommendations for controlling consumptive uses so as to maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

"(c) There are authorized to be appropriated $4,500,000 to carry out the provisions of subsections (a) and (b), which shall remain available until expended.".

GREAT LAKES WATER CONSUMPTIVE USES AND DIVERSIONS

BACKGROUND

Over the last few decades, the Great Lakes states have come to recognize the value and importance of the Great Lakes as a natural resource. Great strides have been made in protecting and improving the water quality of the Great Lakes. Only recently, however, have we begun to turn our attention towards the other aspect of water resource management, that of ensuring adequate supplies of domestic water for economic development needs as well as maintaining the recreational and ecological balance of the Great Lakes system.

It is not difficult to stand in awe of the Great Lakes, a majestic expanse of clean, blue water. They appear a limitless resource. But the reality is that the Great Lakes, in their own way, are every bit as fragile as the ecosystem of a small pond, responding to the international and unintentional desires of man to change his environment.

Collectively, the Great Lakes constitute the largest body of fresh water in the world. They are the most important natural resource for the eight Great Lakes states and two Canadian provinces which share their shorelines. They provide clean, dependable water supplies for residential and industrial consumption, an important transportation mode for moving goods and products, clean energy through hydropower generation and a recreational wonderland. The growth and development of such major midwestern cities as Chicago, Detroit, Toledo, Cleveland, Buffalo, Duluth, Milwaukee and Toronto would not have occurred without the valuable benefits afforded by the lakes.

CONSUMPTIVE USES

Consumptive uses pose a significant threat to the hydrological balance of the Great Lakes water system. Comsumptive uses exist throughout the Great Lakes basin and, by definition, relate only to that portion of water which is withdrawn but not returned to the basin. Consumptive uses include water which is consumed by animals, humans and plants; water which is lost to the system due to evaporation of leakage; and water which is incorporated into products during manufacture.

The development of existing and future projections of consumptive uses in a water

basin as complex as the Great Lakes is very difficult and time-consuming. Tremendous amounts of basic data and information have to be collected and many assumptions made regarding future conditions. With this in mind, an International Joint Commission (IJC) Consumptive Uses Study projects consumptive uses in increase from 4,900 cfs (3.2 bgd) in 1975 to cover 25,000 cfs (16.4 bdg) in 2035. this is more than a five-fold increase in consumptive use and translates into a decrease in the mean outflow of the St. Lawrence River of over 8.5 percent. Much of this increase is due to the expected growth of consumptive use by thermal electric generating facilities, with a 1975 consumption of 480 cfs (0.3 bgd) to 12,000 cfs (7.8 bgd) in 2035, almost half of the total projected consumptive use. It has been estimated that mean levels on Lakes Michigan, Huron and Erie will be lowered by about 0.75 feet by 2035.

Consumptive use within the U.S. accounts for approximately 82 percent of total use. This is a result of greater population and economic activity in the United States and environmental policies in the U.S. that favor closed cycle cooling systems in thermal electric power plants which reduces withdrawals, but increases consumptive uses.

While the growth in consumptive uses will benefit coastal zone interests, costs, or loss of income, will occur to the navigation and hydropower interests. A simplified analysis of the cost to the hydropower and navigation interests indicate that consumptive use may result in costs in excess of $200 million annually by 2035. The Great Lakes shipping interests are restricted in their load capacities by the depth of navigation channels and ports. Any significant reduction in the level of the lakes will require lighter shipments, requiring more vessels to handle the movement of commodities. Success in the hydropower industry is contingent on the quantity and velocity of water flowing through the turbines. Reducing the flow of the water by lowered lake levels will result in decreased generation. Spot power shortages may be experienced, and utilities will have to pursue surplus electricity from other sources to make up for the decline in hydropower production. Control measures should be implemented soon to prevent the Great Lakes region from suffering severe economic consequences in the future.

DIVERSIONS

Diversions of water from one basin to another have been practiced throughout history. The number and magnitude of interbasin transfers has grown dramatically in the 20th century, largely to serve major metropolitan areas and the needs of agriculture in the western United States. There are five significant diversions of water within the Great Lakes system alone.

Water use and consumption patterns in the U.S. for 1980 reveal that the west accounts for 45 percent of the total withdrawal, but 80 percent of the consumptive use. This has required the development of interbasin transfers and the mining of groundwater throughout the High Plains area extending from Texas to Nebraska, as well as in central Arizona and many areas of California. Their future needs, combined with limited supplies, makes them candidates for additional water importation in the future.

An example of the impacts to the Great Lakes which could result from a new diversion is as follows: if a diversion of 5,000 cfs (3.2 bgd) from Lake Superior was allowed, it would lower the mean level of Lake Superior by 0.19 feet, Lakes Michigan and Huron by 0.33 feet, Lake Erie by 0.23 feet and Lake Ontario by 0.2 feet, and would result in a net annual economic loss to the system of about $53 million. These costs would be borne largely by navigation and power generation interests in the same manner as descending lake levels from consumptive uses impact these enterprises.

Recent publications have speculated on the battles that could rage throughout the country over attempts by water deficient areas to siphon fresh water to meet their growing thirst. These articles highlight the growing problems in the "parchbelt" over the need for water to meet the demands of their rapidly growing economies.

Despite the soothsayers' projections, however, there have not been any serious attempts to study or construct facilities to divert significant quantities of Great Lakes water. In a 1981 report to the IJC, the Diversions and Consumptive Uses Study Board found that, "There are no known signficant new or changed diversions proposed for the Great Lakes." Even so, the IJC report cautioned against allowing any future diversions of water. This sentiment is driven in part by the oft-stated opinion that as western water supplies continue to dwindle and the need for irrigation water increases, their search for alternative water supply sources will focus on the Great Lakes.

To date, there has been only one proposal involving diversion of Great Lakes water. In 1981, a coal slurry pipeline company studied a plan to move high grade coal from Gillette, Wyoming to the Great Lakes region via a coal slurry pipeline utilizing Lake Superior water.

Any proposal for studying a large scale transfer of Great Lakes water for irrigation use in western states would be of such significant magnitude that it would likely require authorization by Congress. Further, at today's costs, the likelihood of a large diversion of Great Lakes water for western irrigation use seems quite remote without federal assistance.

Although diversions and consumptive uses are similar in many respects, such as their impact on lake levels and flows, they differ markedly in one respect. Whereas large-scale diversions for use outside the Great Lakes states are not imminent, the growth in consumptive use is occurring, and if current trends continue, will become a substantial problem within the next 20 to 40 years.

RECOMMENDATIONS FOR FUTURE ACTION

To begin addressing the growing dilemma of how to control consumptive uses, the Great Lakes governors, in resolution adopted November 17, 1983 in Indianapolis, urged the governments of the United States and Canada to send a reference to the IJC to further study consumptive uses, their impacts and to evaluate and recommend possible control strategies to reduce consumptive uses in the future. In addition, legislation (H.R. 5008) has been introduced in the Congress authorizing the Environmental Protection Agency to make a comprehensive study of measures to control Great Lakes water use. Finally, the Great Lakes governors have urged Great Lakes institutions to sponsor a symposium that would focus on the consumptive uses issue.

The options available to the Great Lakes states for regulating interstate diversions include the following:

Revising the Boundary Waters Treaty of 1909 to give the IJC more control in regulating diversions, including from Lake Michigan.

Federal and state legislation to prohibit diversions of Great Lakes water without the concurrence of the Great Lakes states and the IJC. The federal legislation could also include a prohibition on federally sponsored studies of interstate diversions of Great Lakes water.

Revising the existing Great Lakes Basin Compact or negotiating a new compact that would regulate diversions of Great Lakes water.

Seeking an equitable apportionment of Great Lakes water by or through the U.S. Supreme Court.

The Boundary Waters Treaty of 1909, which created the International Joint Commission, the only regulatory mechanism governing use of Great Lakes water, could be revised to expand the role of the IJC over interstate diversions. This proposal poses complications since opening up treaty negotiations could also provide an avenue for other controversial issues to enter the treaty negotiations, such as placing a body of water (Lake Michigan) lying wholly within the boundaries of the U.S. under the jurisdiction and control of an international body.

Federal and state legislation offers the most promise for expanding the role of the Great Lakes states in regulating diversions. This approach is rather straightforward: seeking federal legislation to prohibit federally sponsored studies involving large-scale transfer of Great Lakes water and requiring the approval of all Great Lakes states and the IJC for any major new diversion proposal. At the same time, the Great Lakes states would enact their own legislation consistent with the federal legislation.

While it is recognized that both state and federal legislation could be preempted by Congress in the future if a major new transfer of Great Lakes water is in the national interest, having state and federal statutes would provide sufficient protection and a review process for proposed diversions. Legislation (H.R. 4366, S. 2026) has been introduced in the Congress to accomplish these goals and almost all of the Great Lakes states are proposing diversion legislation during the current legislative session. Indiana has already enacted a strong anti-diversion statute.

The Governors believe there is a need to study existing institutional arrangements available to the states and Canadian provinces to resist or regulate diversions of Great Lakes water. They have formed a task force to review the various mechanisms, including a new or revised Great Lakes compact, and report back to the Council of Great Lakes Governors with their findings next year.

Seeking an equitable apportionment of Great Lakes water from the U.S. Supreme Court does not appear to be a viable option since the Supreme Court would not likely entertain a request to apportion water before any serious proposals to utilize Great Lakes waters have been made. In addition, it would be very difficult for the court to determine the available supply to be apportioned since they would have to take into account consumptive uses.

By Mr. DANFORTH (for himself and Mr. PACKWOOD):

S. 2537. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on

Commerce, Science, and Transportation.

AUTHORIZATION FOR RAILROAD SAFETY, AMTRAK, AND THE RAILROAD ACCOUNTING PRINCIPLES BOARD

● Mr. DANFORTH. Mr. President, today I am pleased to introduce on behalf of myself and Senator PACKWOOD a bill that would authorize appropriations for railroad safety, Amtrak, and the Railroad Accounting Principles Board.

In the area of railroad safety, the bill provides appropriations to support the efforts of both the Federal Railroad Administration (FRA) and those 32 States that participate in what is known as the State participation program. This is a program pursuant to which the States enforce the Federal safety laws, and, in turn, the FRA pays 50 percent of the States' costs. Based on a recent safety hearing I chaired, I can assure my colleagues that the funding going to FRA and the States is netting positive results in terms of greatly improved railroad safety. That is not to say that further improvements cannot be made, but I think we are on the right track. I also want to commend the railroad industry and railroad labor for their contributions to safety.

As for Amtrak, this bill basically incorporates the provisions of S. 1117, the Amtrak bill that was reported favorably by the Senate Commerce Committee last year. The new bill authorizes appropriations sufficient to permit Amtrak to operate its entire system. The bill also encourages Amtrak to continue to focus on reducing costs and increasing revenues.

The bill authorizes appropriations for the Railroad Accounting Principles Board. Back in 1980, the Staggers Rail Act authorized the Railroad Accounting Principles Board for the purpose of developing principles to govern how railroads cost out rail movements. However, appropriations for the Board were never made, and its authorization expired last September.

In the Staggers Act oversight hearings I chaired last summer, many shippers and the barge industry urged that the Board be reauthorized. They testified that the Board's principles would help them better understand railroads' costs, and, in turn, whether particular rates are reasonable. Such information is necessary for proceedings before the Interstate Commerce Commission (ICC) in which railroad rates are being challenged as unreasonable. The House of Representatives already has passed legislation to reauthorize funding for the Board.

Mr. President, this bill is one that I believe many of our colleagues will want to join in supporting. It is reasonable, well-balanced, and addresses important railroad concerns.

Mr. President, I ask unanimous consent that the text of the bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes be printed in the RECORD immediately following my remarks here.

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

S. 2537

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

TITLE I—RAILROAD SAFETY

ENFORCEMENT OF SUBPENAS AND ORDERS

SEC. 101. Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by inserting the following immediately after the first sentence: "In case of contumacy or refusal to obey a subpena, order (other than an order directing compliance with this Act), or directive of the Secretary issued under the first sentence of this subsection by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the Untied States, such district court shall have jurisdiction, upon peititon by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with any such subpena, order, or directive. Failure to obey such court order may be punished by the court as a contempt of court.".

ANNUAL REPORT

SEC. 102. (a) Section 211(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(a)) is amended—

(1) by striking "to the President for transmittal"; and

(2) by striking "July 1" and inserting in lieu thereof "April 15".

(b) Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 103. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) in subsection (c)(2), by striking "and" and by inserting immediately before the period at the end thereof the following: ", not to exceed $3,100,000 for the fiscal year ending September 30, 1985, and not to exceed $3,300,000 for the fiscal year ending September 30, 1986";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting immediately after subsection (c) the following:

"(d) There are authorized to be appropriated to carry out the provisions of this Act, except section 206(d) of this title and except for conducting safety research and development activities under this Act, not to exceed $26,691,000 for the fiscal year ending September 30, 1985, and not to exceed $28,426,000 for the fiscal year ending September 30, 1986.".

TITLE II—RAIL PASSENGER SERVICE

DIRECTORS AND OFFICERS

SEC. 201. Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended by inserting "and shall serve until their successors have been appointed" immediately before the period at the end thereof.

PREFERRED STOCK

SEC. 202. Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end thereof the following:

"(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.".

PERFORMANCE REPORTS

SEC. 203. (a) Section 305(1) of the Rail Passenger Service Act (45 U.S.C. 545(1)) is repealed.

(b) Section 305(m) of the Rail Passenger Service Act (45 U.S.C. 545(m)) is amended by striking "Center" each place it appears and inserting in lieu thereof "Corporation".

(c) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended to read as follows:

"(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems.".

DIVERSITY JURISDICTION

SEC. 204. Section 306(m) of the Rail Passenger Service Act (45 U.S.C. 546(m)) is amended by inserting "only" immediately after "citizen".

RAIL SERVICE PERFORMANCE

SEC. 205. (a) Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended—

(1) by striking "criteria set forth in section 404(d)(2)(B)" and inserting in lieu thereof "criterion set forth in section 404(d)(2)"; and

(2) by inserting after the first sentence thereof the following: "Beginning October 1, 1983, if such service is not projected to meet such criterion, the Corporation may discontinue such service, unless the Corporation and a State (or States) enter into an agreement which ensures that the criterion will be met.".

(b) Section 404(c)(3)(B) of the Rail Passenger Service Act (45 U.S.C. 564(c)(3)(B)) is amended—

(1) by striking "60" and inserting in lieu thereof "120";

(2) by striking all after "submission"; and

(3) by adding at the end thereof the following: "For purposes of this subparagraph, continuity of session of the Congress is broken only by an adjournment sine die and the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of such 120-day period.".

(c) Section 404(c)(4)(B) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)(B)) is amended to read as follows:

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operation of rail pas-

senger service over such route so that the criterion will be met.".

(d)(1) The first sentence of section 404(d)(1) of the Rail Passenger Service Act (45 U.S.C. 564(d)(1)) is amended—

(A) by striking "if—" and inserting in lieu thereof "if";

(B) by striking "(A)"; and

(C) by striking all after "mile" the second time it appears therein and inserting in lieu thereof a period.

(2) The second sentence of section 404(d)(1) of the Rail Passenger Service Act (45 U.S.C. 564(d)(1)) is amended by striking "and passenger mile per train mile".

(3) The last sentence of section 404(d)(1) of the Rail Passenger Service Act (45 U.S.C. 564(d)(1) is repealed.

(e) Section 404(d)(2) of the Rail Passenger Service Act (45 U.S.C. 564(d)(2)) is amended—

(1) by striking "if—" and inserting in lieu thereof "if";

(2) by striking "(A)"; and

(3) by striking all after "mile" the second time it appears therein and inserting in lieu thereof a period.

FREEDOM OF INFORMATION

SEC. 206. Section 306(g) of the Rail Passenger Service Act (45 U.S.C. 546(g)) is amended by inserting immediately before the period at the end thereof the following: ", except that trade secrets and commercial or financial information prepared by the Corporation shall be considered as having been 'obtained from a person' under section 552(b)(4) of title 5, United States Code".

AUTHORIZATION FOR APPROPRIATIONS FOR THE NATIONAL RAILROAD PASSENGER CORPORATION

SEC. 207. Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(C) not to exceed $716,400,000 for the fiscal year ending September 30, 1984; and

"(D) not to exceed $720,000,000 for the fiscal year ending September 30, 1985.".

INTERIM EMERGENCY FEDERAL FINANCIAL ASSISTANCE

SEC. 208. Title VII of the Rail Passenger Service Act (45 U.S.C. 621 et seq.) is repealed.

MISCELLANEOUS PROVISIONS

SEC. 209. (a) Section 306(a)(3) of the Rail Passenger Service Act (45 U.S.C. 546(a)(3)) is amended by striking ", except as otherwise provided in this Act,".

(b) Section 306(k) of the Rail Passenger Service Act (45 U.S.C. 546(k)) is repealed.

(c) Section 402(g) of the Rail Passenger Service Act (45 U.S.C. 562(g)) is repealed.

(d)(1) The first sentence of section 805(2)(A) of the Rail Passenger Service Act (45 U.S.C. 644(2)(A)) is amended—

(A) by striking "shall" and inserting in lieu thereof "may"; and

(B) by striking "annually a".

(2) Section 805(2) (A) and (B) of the Rail Passenger Service Act (45 U.S.C. 644(2) (A) and (B)) is amended by striking "audit" wherever it appears and inserting in lieu thereof "audits".

(e) Section 806 of the Rail Passenger Service Act (45 U.S.C. 645) is repealed.

(f) Section 810 of the Rail Passenger Service Act (45 U.S.C. 649) is repealed.

(g) Section 811 of the Rail Passenger Service Act (45 U.S.C. 650) is repealed.

(h) Section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(D)) is repealed.

TITLE III—RAILROAD ACCOUNTING PRINCIPLES BOARD

AMENDMENTS TO TITLE 49, UNITED STATES CODE

SEC. 301. (a) Section 11161(c)(2) of title 49, United States Code, is amended by inserting ", except that no such individual may be paid at a rate which exceeds the rate prescribed for level V of the Executive Schedule" immediately before the period.

(b) Section 11161(f) of title 49, United States Code, is amended by striking "effective date of the Staggers Rail Act of 1980" and inserting in lieu thereof "members of the Board are appointed under this section".

(c) Section 11162(a) of title 49, United States Code, is amended by striking "effective date of the Staggers Rail Act of 1980" and inserting in lieu thereof "members of the Board are appointed under section 11161 of this title".

(d) Section 11167 of title 49, United States Code, is amended by striking "effective date of the Staggers Rail Act of 1980" and inserting in lieu thereof "members of the Board are appointed under section 11161 of this title".

(e) Section 11168 of title 49, United States Code, is amended—

(1) by striking "1981" and inserting in lieu thereof "1984";

(2) by striking "1982" and inserting in lieu thereof "1985";

(3) by striking "1983" and inserting in lieu thereof "1986".●

By Mr. PACKWOOD:

S. 2538. A bill to consolidate and authorize certain ocean and coastal programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OCEAN AND COASTAL PROGRAM AUTHORIZATION ACT

● Mr. PACKWOOD. Mr. President, I am pleased to introduce a bill to provide for authorization of several important programs of the National Oceanic and Atmospheric Administration (NOAA): deep seabed mining, nonliving marine resources, the sea grant program, the ocean thermal energy conversion (OTEC) program and the National Advisory Committee on Oceans and Atmosphere (NACOA).

NOAA was created by Executive order in 1970 with the primary responsibility for most of the Federal Government's civilian research, service and regulatory programs affecting the Nation's oceans and atmosphere. The functions of NOAA are critical for the sound and productive management of the Nation's ocean and coastal resources.

This bill is one of a series which together provide a comprehensive authorization for NOAA.

Included in this bill are authorizations for deep seabed mining and programs concerning nonliving marine resources. Hard mineral resources in the ocean represent a source of supply in addition to that on land. It is likely that these resources will eventually be used to supplement domestic and foreign supplies during approaching decades.

The technology for mining and processing these minerals has advanced to the point where mining companies in the United States and other nations are on the verge of commercial exploitation. Manganese nodules and polymetallic sulfide deposits, if commercially developed, would reduce dependence on potentially unstable foreign supplies of strategic minerals, improve the balance of payments, provide new employment opportunities in the private sector, and help maintain U.S. leadership in ocean technologies.

NOAA's sea grant program is directed toward developing and protecting the Nation's marine resources through the application of academic expertise in coordinated research, education, and advisory service programs designed to meet national, regional, and local needs. Sea grant's excellent research program has accelerated growth of marine industries, such as aquaculture and ocean engineering, through the development of new technologies and the effective application of research by governmental, industrial, and private uses.

Sea grant's training program continues to produce the specialized personnel needed to develop and manage our Nation's marine resources. In the 8 years of its existence, sea grant has more than justified continued support of its successful programs and I am pleased to include its reauthorization in this bill.

Also included in this bill is the reauthorization of NOAA's ocean thermal energy conversion (OTEC) program. This program provides a framework for the licensing and commercial use of technology to generate electricity from the temperature difference between warm water at the ocean's surface and the colder underlying waters. Utilization of this energy resource would help reduce dependence of foreign sources of oil by providing an alternate and renewable supply of electrical energy.

A final section of this bill provides for the reauthorization of the National Advisory Committee on Oceans and Atmosphere (NACOA). NACOA, comprised of individuals having expertise in oceanic and atmospheric affairs, reviews the Nation's marine policies and programs and reports to the President and the Congress. In the past, NACOA has provided useful advice to Congress and demonstrated the value of its services.

In conclusion, the bill which I am introducing today provides authoriza-

tion for a number of important and cost-effective programs of NOAA, and I ask my colleagues for their support.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2540. A bill to amend the Age Discrimination in Employment Act of 1967 to exclude from the operation of such act matters relating to the age at which individuals may be hired, or discharged from employment, as firefighters and law enforcement officers by States and political subdivisions of States; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT ACT PUBLIC SAFETY OFFICERS AMENDMENTS OF 1984

Mr. BRADLEY. Mr. President, I rise today to introduce legislation that amends the Age Discrimination in Employment Act to allow States and municipalities to determine entry and retirement ages for their public safety officers and firefighters. The bill is identical to legislation introduced last week in the House by Congressmen HUGHES and RINALDO.

Mr. President, Congress has already exempted from ADEA certain classes of Federal Government workers who regularly face unique mental and physical demands; since 1974, Federal firefighters and law enforcement officers, including members of the FBI, Secret Service, and Federal prisons, must retire at age 55. This bill extends the exemption to allow States and municipalities to determine retirement and entry ages for their own public safety officers and firefighters, just as Congress has done for similarly situated Federal employees.

This issue is coming to a head at this time because the Supreme Court recently held in EEOC against Wyoming that the Age Discrimination in Employment Act covers States and political subdivisions. A major consequence of this decision was to invalidate the laws of States and local governments which set retirement ages of less than 70 for public safety officers and firefighters. Needless to say, the Supreme Court decision has caused disarray in the affected State and local jurisdictions.

Mr. President, I am a strong proponent of the Age Discrimination in Employment Act. This bill should not be construed as an invitation to start chipping away at those protections. But older Americans have as much reason as anyone to insure that those who must perform emergency services are physicially able to do so. Congress has already determined that age is a significant factor in job performance for a very select group of occupations—Federal firefighters and law enforcement officers. This legislation does not expand the number of occupations to be exempted; it merely exempts these same occupations regardless of whether the person works for the Federal Government or a State or local government.

Mr. President, this issue was brought to my attention by the Governor of New Jersey and the superintendent of the New Jersey State Police. They strongly support this legislative remedy. In addition, the National Governors Association, National Association of Attorneys General, International Association of Chiefs of Police, National Troopers Coalition, and numerous other law enforcement organizations have passed resolutions calling on Congress to exempt State public safety officers from ADEA. I urge my colleagues to join us in correcting the inconsistency that exists in the act.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Act Public Safety Officers Amendments of 1984".

SEC. 2. Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(h) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken with respect to the employment of an individual as a firefigther or as a law enforcement officer.".

SEC. 3. Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

"(j) The term 'firefighter' means an employee the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

"(k) The term 'law enforcement officer' means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, 'detention' includes the duties of—

"(1) employees of any penal institution; and

"(2) employees of any public health agency assigned to the field service of any penal institution;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of a State require frequent (as determined by the appropriate administrative authority) direct contact with these individuals in their detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation.".

SEC. 4. The amendments made by this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before the date of the enactment of this Act.

● Mr. LAUTENBERG. Mr. President, I am pleased to join with my colleague, Senator BRADLEY, in sponsoring the Age Discrimination in Employment Act Public Safety Officers Amendments of 1984. This bill remedies a problem which has come about in the wake of the Supreme Court decision in EEOC against Wyoming. That decision held that the Age Discrimination in Employment Act covers States and political subdivisions. As a result, State and local government requirements have been invalidated for retirement ages under age 70 for police and other public safety officers and firefighters.

The irony of this situation is that Congress has allowed early mandatory retirement ages for Federal law enforcement officers and certain other Federal employees such as air traffic controllers. As the situation now stands, however, State and local governments are not allowed to use the same discretion in setting early retirement ages for similar classes of employees.

Mr. President, the bill being introduced today would return discretion to these governments to set special entry and retirement ages for law enforcement officers and firefighters. This change in the law would be consistent with Federal policy and would still ban most age discrimination in employment.●

ADDITIONAL COSPONSORS

S. 627

At the request of Mr. PACKWOOD, the names of the Senator from Connecticut (Mr. WEICKER), the Senator from New Jersey (Mr. BRADLEY), and the Senator from Illinois (Mr. DIXON) were added as cosponsors of S. 627, a bill to authorize the establishment of a national scenic area to assure the protection, development, conservation, and enhancement of the scenic, natural, cultural, and other resource values of the Columbia River Gorge in the States of Oregon and Washington, to establish national policies to assist in the furtherance of its objective, and for other purposes.

S. 1059

At the request of Mr. DENTON, the name of the Senator from Nevada (Mr. HECHT) was added as a cosponsor of S. 1059, a bill to provide that it shall be unlawful to deny equal access to students in public schools and public colleges who wish to meet voluntarily for religious purposes and to provide district courts with jurisdiction over violations of this act.

S. 1816

At the request of Mr. THURMOND, the names of the Senator from Kansas (Mr. DOLE) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 1816, a bill to amend the Textile Fiber Products Identification Act, the Tariff Act of 1930, and the Wool Products Labeling Act of 1939 to improve the labeling of textile fiber and wool products.

S. 2025

At the request of Mr. NUNN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2025, a bill to amend the Highway Improvement Act of 1982 to provide additional funds for the completion of certain priority primary projects.

S. 2116

At the request of Mr. MATSUNAGA, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2116, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 2266

At the request of Mr. CRANSTON, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 2266, a bill to grant a Federal charter to Vietnam Veterans of America, Inc.

S. 2313

At the request of Mr. THURMOND, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2313, a bill to permit credit for civil service retirement purposes and in computing length of service for purposes of determining leave, compensation, health insurance, severance pay, tenure, and status in the case of certain individuals who performed National Guard technician services before January 1, 1969.

S. 2378

The request of Mr. ABDNOR, the names of the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2378, a bill to provide authorizations of appropriations for the impact aid program under Public Law 874 of the 81st Congress, and for other purposes.

S. 2413

At the request of Mr. DENTON, the names of the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), the Senator from Missouri (Mr. DANFORTH), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BOREN), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Missouri (Mr. EAGLETON), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of S. 2413, a bill to recognize the organization known as the American Gold Star Mothers, Inc.

S. 2460

At the request of Mr. MITCHELL, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of S. 2460, a bill to designate a Federal building in Augusta, Maine, as the "Edmund S. Muskie Federal Building."

S. 2461

At the request of Mr. MITCHELL, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of S. 2461, a bill to designate a Federal building in Bangor, Maine, as the "Margaret Chase Smith Federal Building."

S. 2462

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2462, a bill to amend title 11 of the United States Code to clarify the circumstances under which collective-bargaining agreements may be rejected in cases under chapter 11 of such title, and for other purposes.

SENATE JOINT RESOLUTION 198

At the request of Mr. PRYOR, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Senate Joint Resolution 198, a joint resolution designating April 27, 1984, as "National Nursing Home Residents Day."

SENATE JOINT RESOLUTION 215

At the request of Mr. THURMOND, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to designate the week of April 23-27, 1984, as "National Student Leadership Week."

SENATE JOINT RESOLUTION 229

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 229, a joint resolution to proclaim the week beginning April 22, 1984, as "National Dance Week."

SENATE JOINT RESOLUTION 245

At the request of Mr. GORTON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Joint Resolution 245, a joint resolution to designate the week of April 15 through April 21, 1984, as "National Recreational Sports Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. EXON, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of Senate Joint Resolution 246, a joint resolution strongly urging the President to secure a full accounting of Americans captured or missing in action in Southeast Asia, and for other purposes.

SENATE JOINT RESOLUTION 256

At the request of Mr. THURMOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Joint Resolution 256, a joint resolution designating March 21, 1984, as "National Single Parent Day."

SENATE JOINT RESOLUTION 265

At the request of Mrs. HAWKINS, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Joint Resolution 265, a joint resolution designating the week of April 29 through May 5, 1984, as "National Week of the Ocean."

SENATE JOINT RESOLUTION 266

At the request of Mr. RANDOLPH, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Utah (Mr. HATCH), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of Senate Joint Resolution 266, a joint resolution designating the week beginning April 8, 1984, as "National Hearing Impaired Awareness Week."

SENATE RESOLUTION 358

At the request of Mr. CHILES, the names of the Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of Senate Resolution 358, a resolution commending the Government of Colombia for its major achievement in seizing large amounts of cocaine, and for other purposes.

SENATE CONCURRENT RESOLUTION 102—TO CORRECT THE ENROLLMENT OF H.R. 4169

Mr. SIMPSON (for himself and Mr. CRANSTON) submitted the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 4169, the Clerk of the House of Representatives is directed to make the correction as follows: "strike title IV."

Mr. SIMPSON. Mr. President, I submit, on behalf of myself and the Senator from California (Mr. CRANSTON), a concurrent resolution to make a technical correction in the enrollment of H.R. 4169.

It is our understanding with the leadership that this resolution will be taken up as the first item on Monday.

AMENDMENTS SUBMITTED

URGENT SUPPLEMENTAL APPROPRIATION

LEVIN (AND INOUYE) AMENDMENT NO. 2889

Mr. LEVIN (for himself and Mr. INOUYE) proposed an amendment to the joint resolution (H.J. Res. 492), making an urgent supplemental appropriation for the fiscal year ending September 30, 1984, for the Department of Agriculture, as follows:

At the end of the bill, insert the following:

"No funds appropriated herein for covert assistance in Central America can be provided to any individual or group which is not part of a country's armed forces and which is known by the U.S. Government to have as one of its intentions the violent overthrow of any government in Central America with which the U.S. Government has full diplomatic relations."

SASSER (AND OTHERS) AMENDMENT NO. 2890

Mr. SASSER (for himself, Mr. INOUYE, Mr. BINGAMAN, Mr. PELL, Mr. WEICKER, Mr. EAGLETON, Mr. LEAHY, Mr. GLENN, Mr. ZORINSKY, Mr. BUMPERS, Mr. EXON, Mr. RIEGLE, Mr. CRANSTON, Mr. FORD, Mr. PROXMIRE, Mr. TSONGAS, Mr. BAUCUS, Mr. RANDOLPH, Mr. BIDEN, Mr. MELCHER, Mr. PRYOR, Mr. METZENBAUM, Mr. KENNEDY, Mr. BOREN, and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 492), supra, as follows:

On page 6, line 12 after the word "Congress" strike all through line 16 and add the following:

"; *Provided,* That temporary facilities previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense, shall be available solely for the conduct of military training exercises unless such facilities are deemed necessary for the evacuation or self-defense of U.S. personnel: *Provided further,* except as specifically authorized and appropriated by Congress no funds appropriated to the Department of Defense may be obligated or expended to upgrade or convert to permanent use for any military or paramilitary organization any temporary facility previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense."

STEVENS (AND MATTINGLY) AMENDMENT NO. 2891

Mr. STEVENS (for himself and Mr. MATTINGLY) proposed an amendment to amendment No. 2890 proposed by Mr. SASSER (and others) to the joint resolution (H.J. Res. 492), supra; as follows:

In lieu of the language proposed, insert the following:

or unless the President determines and provides prior notification to the Committees on Appropriations, Armed Services, and Foreign Relations that an unforeseen emergency exists which requires such construction, modification, or improvement: Provided, That temporary facilities previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense, shall be available to U.S. Military forces solely for the conduct of military training exercises unless such facilities are deemed necessary for the evacuation or self-defense of U.S. personnel: Provided further, except as specifically authorized and appropriated by Congress no funds appropriated to the Department of Defense may be obligated or expended to convert to permanent use for any military or paramilitary organization any temporary facility previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense.

SASSER (AND OTHERS) AMENDMENT NO. 2892

Mr. SASSER (for himself, Mr. INOUYE, Mr. BINGAMAN, Mr. PELL, Mr. WEICKER, Mr. EAGLETON, Mr. LEAHY, Mr. GLENN, Mr. ZORINSKY, Mr. BUMPERS, Mr. EXON, Mr. RIEGLE, Mr. CRANSTON, Mr. FORD, Mr. PROXMIRE, Mr. TSONGAS, Mr. BAUCUS, Mr. RANDOLPH, Mr. BIDEN, Mr. MELCHER, Mr. PRYOR, Mr. METZENBAUM, Mr. KENNEDY, and Mr. BOREN) proposed an amendment to amendment No. 2890 proposed by him (and others) to the joint resolution (H.J. Res. 492), supra; as follows:

"in whole or in part utilizing operations and maintenance funds of the Department of Defense, shall be available to U.S. military force solely for the conduct of military training exercises unless such facilities are deemed necessary for the evacuation or self-defense of U.S. personnel: Provided further, except as specifically authorized and appropriated by Congress no funds appropriated to the Department of Defense may be obligated or expended to upgrade to or convert to permanent use for any military or paramilitary organization any temporary facility previously or hereinafter constructed, modified or improved in Honduras, in whole or in part utilizing operations and maintenance funds of the Department of Defense."

MELCHER (AND OTHERS) AMENDMENT NO. 2893

Mr. MELCHER (for himself, Mr. ABDNOR, Mr. PELL, Mr. BAUCUS, Mr. BENTSEN, Mr. D'AMATO, Mr. MOYNIHAN, Mr. PRESSLER, Mr. TRIBLE, Mr. WARNER, and Mr. DIXON) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

On page 6, after line 21, add the following:

SEC. 105. The Secretary of Education shall distribute all the funds appropriated in title III of Public Law 98-139, under the heading School Assistance in Federally Affected Areas, for entitlements under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to local educational agencies in accordance with the provisions of such Act of September 30, 1950, and the regulations in effect on the date of enactment of Public Law 98-139. Such funds shall be paid to the local educational agencies within 15 days of the date of enactment of this Act.

DIXON (AND OTHERS) AMENDMENT NO. 2894

Mr. DIXON (for himself, Mr. PERCY, Mr. KENNEDY, Mr. BOSCHWITZ, Mr. METZENBAUM, Mr. D'AMATO, Mr. MOYNIHAN, Mr. HEINZ, Mr. LEVIN, Mr. RIEGLE, Mr. SARBANES, Mr. EAGLETON, Mr. SASSER, Mr. HUDDLESTON, Mr. LAUTENBERG, and Mr. GLENN) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

At the end of the joint resolution insert the following:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND SERVICE EMPLOYMENT SERVICES

For an additional amount for part B of title II of the Job Training Partnership Act, $100,000,000, which—

(1) shall be allotted, by the Secretary of Labor, within 7 days of the date of enactment of this Act, to States which have any service delivery area which received less than 90 percent of the amount of payments for summer youth employment and training programs for fiscal year 1984 than in fiscal year 1983, in accordance with section 251 of the Job Training Partnership Act; and

(2) shall be allocated among service delivery areas within each such State so that the amount of payments for fiscal year 1984 for any service delivery area within the State which received less than 90 percent of the amount of payments for summer youth employment and training programs made in that area in fiscal year 1983 will be increased to an amount equal to 90 percent of the amount of payments for summer youth employment and training programs made in that area in fiscal year 1983; *Provided,* That if the amount appropriated under this heading and allotted to a State is insufficient to make the full payments required by this paragraph the amount of the increase of any payment to which service delivery areas in the State shall be eligible to receive by reason of the application of this paragraph shall be determined on a pro rata basis; *Provided further,* That if the amount appropriated under this heading and allotted to any State is greater than is needed to make the full payments required by this paragraph, the Secretary shall reallot the excess to all States which cannot make the payments to meet the 90 percent hold harmless provision on the basis of the need for payments described in this paragraph; *Provided further,* That, where the boundaries of service delivery areas differ from prime sponsor areas with respect to the units of general local government covered, determination of payments shall be based on the percentage share of allocations which were available to the units of general local government within each such area in fiscal year 1983.

STEVENS (AND OTHERS) AMENDMENT NO. 2895

Mr. STEVENS (for himself, Mr. GOLDWATER, Mr. BYRD, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

On page 5, between lines 2 and 3, insert the following:

SEC. 2. For additional payment of the Corporation for Public Broadcasting, as authorized by the Federal Communications Commission Authorization Act of 1983, Public Law 98-214, the following amounts, which shall be available within limitations specified by said Act, are appropriated, notwithstanding any other provision of this resolution: For fiscal year 1984, $15,000,000; for fiscal year 1985, $23,000,000; and for fiscal year 1986, $32,000,000: *Provided*, That none of the funds appropriated under this section shall be used to pay for receptions, parties, and similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds appropriated under this section shall be available or used to aid or support any program or activity that excludes from participation, denies benefits to, or discriminates against any person on the basis of race, color, national origin, religion, or sex.

HATFIELD AMENDMENT NO. 2896

Mr. HATFIELD proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

At the appropriate place in the joint resolution, insert:

SENATE

CONTINGENT EXPENSES OF THE SENATE

* * * * *

STATIONERY (REVOLVING FUND)

To provide additional capital for the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), $61,000.

HATFIELD (AND BYRD) AMENDMENT NO. 2897

Mr. HATFIELD (for himself and Mr. BYRD) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

At the appropriate place add the following:

SEC. . (a) The authorization for the Bonneville Lock and Dam project, Oregon and Washington, contained in the first section of the Act entitled "An Act authorizing construction of certain public works on rivers and harbors, and for other purposes", approved on August 30, 1935 (49 Stat. 1028), is amended to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct a new lock in accordance with the report of the Chief of Engineers, dated February 10, 1981, at an estimated cost of $177,000,000.

(b) The Secretary of the Army, acting through the Chief of Engineers is authorized and directed to replace the Gallipolis locks, Ohio River mile 297.0 Ohio and West Virginia, by constructing one 110-foot by 600-foot lock in a 1.7 mile-long canal landward of the existing lock, generally in accordance with the recommendations of the Huntington District Engineer in his report dated February, 1981, as approved by the Ohio River Division Engineer, with such modifications in the design of the replacement of such locks as the Chief of Engineers deems necessary and advisable, at an estimated cost of approximately $313,000,000.

BAUCUS (AND BUMPERS) AMENDMENT NO. 2898

Mr. BAUCUS (for himself and Mr. BUMPERS) proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

At the appropriate place in the resolution insert the following:

SEC. (a). Notwithstanding any other provision of law, the National Park Service shall enter into a contract releasing or transferring any Federal employees or liquidating any equipment or materials for the purpose of complying with the Office of Management and Budget Circular A-76 as it relates to the sixty-two activities tentatively scheduled for review by the National Park Service by March 30, 1984, only after the following conditions have been met:

(1) the study supporting that contract required by the Office of Management and Budget Circular A-76 is completed, including the bidding process and review of bids;

(2) the National Park Service has had 30 days to review the bid results and to transmit recommendations to the House and Senate Committees on Appropriations, the Senate Committee on Energy and Natural Resources, and the House Committee on Interior and Insular Affairs as to which activities should be contracted; and

(3) 30 days have elapsed since the transmittal required by (2) Sec. (b). All recommendations to be submitted shall be submitted by September 1, 1984.

SEC. (c). The National Park Service shall not solicit bids related to other Circular A-76 reviews before January 1, 1985.

MATSUNAGA AMENDMENT NO. 2899

Mr. MATSUNAGA proposed an amendment to the joint resolution (H.J. Res. 492), supra; as follows:

At the appropriate place add the following:

In developing nations, the establishment of physical infrastructure in rural areas requires the discrete application of engineering and construction skills, equipment and training;

In 1961, a farsighted group of Navy Civil Engineer Corps officers, otherwise known as Seabees, conceived of forming tightly-configured mobil units to provide engineering and construction services and training in developing nations;

The above-mentioned concept was implemented by the Navy with the establishment of 13-man Seabee Teams, elite units of unprecedented mobility and versatility, whose unique cross-rated training enabled each team to provide a minimum of 35 technical skills keyed to rural needs in developing nations, and to train local inhabitants to apply those skills as well;

Seabee Teams served with distinction in Africa and Latin America, in such nations as Upper Volta, Ecuador, the Central African Republic, Haiti, Liberia;

Seabee Teams in Africa and Latin America were subsequently diverted to Indochina in support of the counterinsurgency effort there, and the programs in Africa and Latin America were allowed to lapse;

The need for rural infrastructure development aid in Africa has grown acute and United States civilian aid agencies cannot match the unique capabilities of United States military construction and engineering field units, as exemplified by Seabee Teams, for meeting that need: Now, therefore, it is the sense of the Congress that

(1) the Seabee Team program for Africa be reactivated by the United States Navy in strict accordance with its original nation-building mission, as applied in Africa in the early 1960s, and in association with the Department of State of before;

(2) as a first step, no more than five and no less than three Seabee Teams be dispatched to African nations, requiring rural infrastructure development assistance, which, upon being advised of the availability of such teams, formally request their services;

(3) the Secretary of the Navy, in association with the Secretaries of the Army and Air Force, report to the Senate at the earliest possible date, but no later than November 1, 1984, on steps taken to implement the above-mentioned Seabee Team program in Africa, with an estimate of the cost of such program on an annual basis.

MELCHER AMENDMENT NO. 2900

Mr. MELCHER proposed an amendment to the joint resolution (H.J. Res. 492) supra; as follows:

At the appropriate place in the joint resolution, insert the following:

Since large numbers of refugees from Guatemala have fled their homes in search of personal safety; and,

Since the government of Mexico maintains facilities in the state of Chiapas to care for the housing, food and medical care of up to 100,000 refugees from Guatemala; and,

Since while there has been cooperation by international organizations to help meet the needs of these refugees in Chiapas, the government of Mexico meets most of the costs of this effort;

Therefore, it is the sense of the Congress, that in cooperation with the government of Mexico, the newly enacted authority under Section 416 of the Agricultural Act dealing with U.S. surplus wheat and dairy products shall be used on an expedited basis to make these commodities available to help feed the Guatemalan refugees in Mexico.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT AMENDMENTS OF 1983

DOMENICI (AND OTHERS) AMENDMENT NO. 2901

Mr. BAKER (for Mr. DOMENICI) (for himself, Mr. MELCHER, and Mr. ANDREWS) proposed an amendment to the bill (H.R. 2751) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, as follows:

On page 8, beginning with line 25, strike out all through line 14 on page 9 and insert in lieu thereof the following:

SEC. 14. (a)(1) To the extent of the availability of funds for such purpose, the Secretary of the Interior shall:

(A) enter into a thirty-year agreement with the College of Santa Fe, Santa Fe, New Mexico, to provide educational facilities for the use of, and to develop cooperative educational/arts programs to be carried out with the postsecondary fine arts and museum services programs of, the Institute

of American Indian Arts administered by the Bureau of Indian Affairs; and

(B) conduct such activities as are necessary to improve the facilities used by the Institute of American Indian Arts at the College of Santa Fe.

(2) The provisions of this subsection shall take effect on October 1, 1984.

(b)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs, is directed to conduct a study for the purpose of determining the need, if any, for a museum facility to be established for the benefit of the Institute of American Indian Arts, the feasibility of establishing such museum, and the need or desirability, if any, to establish any such museum in close proximity to the facilities currently being used by such Institute at the College of Santa Fe.

(2) On or before February 1, 1985, the Secretary of the Interior shall report the results of such study, together with his recommendations, to the Congress.

(3) Should the study recommend establishment of a museum, and should the College of Santa Fe be selected as the best site, any agreement entered into by the Secretary of the Interior for construction of such museum shall contain assurances, satisfactory to the Secretary, that appropriate lands at the College of Santa Fe will be available at no cost to the Federal Government for the establishment of a museum facility.

FEDERAL BOAT SAFETY ACT

DOLE (AND LONG) AMENDMENT NO. 2902

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. LONG) submitted an amendment intended to be proposed by them to the bill (H.R. 2163) to amend the Federal Boat Safety Act of 1971, and for other purposes; as follows:

At the end of the committee substitute add the following:

TITLE I—TAX REFORMS GENERALLY

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title and titles II, III, IV, V, VI, VII, and VIII may be cited as the "Deficit Reduction Tax Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title and titles II, III, IV, V, VI, VII, and VIII 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 1954.

(c) TABLE OF CONTENTS.—

Subtitle A—Deferral of Certain Tax Reductions

SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Tax Freeze Act of 1984".

SEC. 12. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 48(c)(2) (relating to dollar limitation on amount of used section 38 property) is amended—

(1) by striking out "$150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$125,000 ($150,000 for taxable years beginning after 1987)", and

(2) by striking out "$150,000 (or $125,000" each place it appears and inserting in lieu thereof "$125,000 (or $150,000".

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 48(c)(2) is amended by striking out "$75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$62,500 ($75,000 for taxable years beginning after 1987)".

SEC. 13. FINANCE LEASE PROVISIONS.

(a) FOUR-YEAR DEFERRAL OF FINANCE LEASE PROVISIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 209(d)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1987".

(2) FINANCE LEASE PROVISIONS CONTINUE TO APPLY TO FARM PROPERTY.—Clause (i) of section 209(d)(1)(B) of such Act is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1988".

(3) TECHNICAL AMENDMENTS.—

(A) Subclause (I) of section 168(f)(8)(B)(ii) (relating to requirement that only 40 percent of lessee's property may be treated as qualified), as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "1986" and inserting in lieu thereof "1990".

(B) Paragraph (4) of section 168(i) (relating to limitations), as so amended, is amended by striking out "1985" each place it appears and inserting in lieu thereof "1989".

(b) TERMINATION OF SAFE HARBOR LEASING RULES.—Paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (relating to special rules for leasing), as in effect after the amendments made by section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 but before the amendments made by section 209 of such Act, shall not apply to agreements entered into after December 31, 1983. The preceding sentence shall not apply to property described in paragraph (3)(G) or (5) of section 208(d) of such Act.

(c) TRANSITIONAL RULES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall not apply with respect to any property if—

(A) a binding contract to acquire or to construct such property was entered into by the lessee before March 7, 1984, or

(B) such property was acquired by the lessee, or the construction of such property was begun, by or for the lessee, before March 7, 1984.

(2) SPECIAL RULE FOR CERTAIN AUTOMOTIVE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to property which is placed in service before January 1, 1988—

(i) which is automotive manufacturing property, and

(ii) with respect to which the lessee is a qualified lessee (within the meaning of section 208(d)(6) of the Tax Equity and Fiscal Responsibility Act of 1982).

(B) $150,000,000 LIMITATION.—The provisions of subparagraph (A) shall not apply to any agreement if the sum of—

(i) the cost basis of the property subject to the agreement, plus

(ii) the cost basis of any property subject to an agreement to which subparagraph (A) previously applied and with respect to which the lessee was the lessee under the agreement described in clause (i) (or any related person within the meaning of section 168(e)(4)(D) of the Internal Revenue Code of 1954),

exceeds $150,000,000.

(C) AUTOMOTIVE MANUFACTURING PROPERTY.—For purposes of this paragraph, the

term "automotive manufacturing property" means—

(i) property used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacturing of automobiles or trucks (other than truck tractors) with a gross vehicle weight of 13,000 pounds or less,

(ii) machinery, equipment, and special tools of the type included in former depreciation range guideline classes 37.11 and 37.12, and

(iii) any special tools owned by the taxpayer which are used by a vendor solely for the production of component parts for sale to the taxpayer.

(3) SPECIAL RULE FOR CERTAIN COGENERATION FACILITIES.—The amendments made by subsection (a) shall not apply with respect to any property which is part of a coal-fired cogeneration facility—

(A) for which an application for certification was filed with the Federal Energy Regulatory Commission on December 30, 1983,

(B) for which an application for a construction permit was filed with a State environmental protection agency on February 20, 1984, and

(C) which is placed in service before January 1, 1988.

SEC. 14. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"If the taxable year begins in:	The applicable amount is:
1983, 1984, 1985, 1986, or 1987	$5,000
1988 or 1989	7,500
1990 or thereafter	10,000.".

SEC. 15. EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 44G(a)(2) (relating to employee stock ownership credit), as in effect before the amendments made by subtitle G of title VIII of this Act, is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For aggregate compensation paid or accrued during a portion of the taxable year occurring in calendar year:.	The applicable percentage is:
1983, 1984, 1985, 1986, or 1987	0.5
1988 or thereafter	0."

SEC. 16. EXCISE TAX ON COMMUNICATIONS SERVICES.

Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"With respect to amounts paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1985, 1986, or 1987	3
During 1988 or thereafter	0."

SEC. 17. POSTPONEMENT OF NET INTEREST EXCLUSION.

Paragraph (1) of section 302(d) of the Economic Recovery Tax Act of 1981 (relating to the effective date of the partial exclusion of interest) is amended by striking out "1984" and inserting in lieu thereof "1987".

SEC. 18. FOREIGN EARNED INCOME OF INDIVIDUALS.

Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987	$80,000
1988	85,000
1989	90,000
1990 and thereafter	95,000."

SEC. 19. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years ending after December 31, 1983.

SUBTITLE B—TAX-EXEMPT ENTITY LEASING; SERVICE CONTRACTS

SEC. 21. SHORT TITLE.

This part may be cited as the "Governmental Lease Financing Reform Act of 1983".

SEC. 22. DENIAL OF TAX INCENTIVES FOR PROPERTY USED BY GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.

(a) GENERAL RULE.—Section 168 (relating to accelerated cost recovery system) is amended by redesignating subsection (j) as subsection (l) and by inserting after subsection (i) the following new subsections:

"(j) PROPERTY USED BY GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, the deduction allowed under subsection (a) (and any other deduction allowable for depreciation or amortization) for any taxable year with respect to tax-exempt use property shall be determined—

"(A) by using the straight-line method (without regard to salvage value), and

"(B) by using a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(I) Property not described in subclause (II) or subclause (III).	The present class life.
(II) Personal property with no present class life.	12 years.
(III) 20-year real property.	40 years.

"(2) OPERATING RULES.—

"(A) RECOVERY PERIOD MUST AT LEAST EQUAL 125 PERCENT OF LEASE TERM.—In the case of any tax-exempt use property used by the tax-exempt entity pursuant to a lease, the recovery period used for purposes of paragraph (1) shall not be less than 125 percent of the lease term.

"(B) CONVENTIONS.—

"(i) PROPERTY OTHER THAN 20-YEAR REAL PROPERTY.—In the case of property other than 20-year real property, the half-year convention shall apply for purposes of paragraph (1).

"(ii) 20-YEAR REAL PROPERTY.—In the case of 20-year real property, the amount determined under paragraph (1) shall be determined on the basis of the number of months in the year in which the property is in service.

"(C) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLIES.—Paragraph (1) shall not apply to any recovery property if the recovery period applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under this subsection.

"(D) DETERMINATION OF CLASS FOR PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of any property which is not recovery property, for purposes of this subsection, the determination of whether such property is 20-year real property shall be made as if such property were recovery property.

"(E) COORDINATION WITH SUBSECTION (f)(12).—Paragraph (12) of subsection (f) shall not apply to any tax-exempt use property to which this subsection applies.

"(F) SPECIAL RULE FOR PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

"(i) IN GENERAL.—In the case of tax-exempt use property which is used by a foreign person or entity pursuant to a lease, the deduction under paragraph (1) shall be determined—

"(I) without regard to subparagraph (A) of this paragraph, and

"(II) by using the 150 percent declining balance method, switching to the straight-line method at a time to maximize the deduction.

"(ii) SPECIAL RULE FOR 1984.—In the case of property placed in service during 1984 which is used during 1984 by a foreign person or entity pursuant to a lease entered into before 1985, clause (i) shall be applied—

"(I) without regard to subclause (I) thereof, and

"(II) by substituting '175 percent' for '150 percent'.

"(iii) DEDUCTION CANNOT EXCEED AMOUNT UNDER METHOD OTHERWISE AVAILABLE.—In the case of property described in clause (i), the deduction allowable under subsection (a) (and any other deduction allowable for depreciation or amortization) shall not exceed the amount of such deduction determined without regard to this subsection.

"(G) 20-YEAR REAL PROPERTY TO INCLUDE 15-YEAR REAL PROPERTY.—For purposes of this subsection, the term '20-year real property' includes 15-year real property.

"(3) TAX-EXEMPT USE PROPERTY.—For purposes of this subsection—

"(A) PROPERTY OTHER THAN 20-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means any tangible property used by a tax-exempt entity.

"(B) 20-YEAR REAL PROPERTY.—

"(i) IN GENERAL.—In the case of 20-year real property, the term 'tax-exempt use property' means—

"(I) property owned by a tax-exempt entity, and

"(II) that portion of any property used by a tax-exempt entity in a disqualified use.

"(ii) DISQUALIFIED USE.—For purposes of this subparagraph, the term 'disqualified use' means any use of the property by a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) such use is pursuant to a lease under which there is a fixed or determinable price purchase or sale option which involved such entity (or a related entity) or there is the equivalent of such an option,

"(III) such use is pursuant to a lease which has a lease term in excess of 20 years, or

"(IV) such use occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity).

"(iii) THRESHOLD TESTS.—Subclause (II) of clause (i) shall apply to any property only if—

"(I) the aggregate portion of such property used by all tax-exempt entities in disqualified uses is more than 50 percent of the property, or

"(II) the portion of such property used by 1 tax-exempt entity (and any related tax-exempt entities) in disqualified uses is more than 35 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of subclauses (I) and (IV) of clause (ii), improvements to a property (other than land) shall not be treated as a separate property.

"(v) CERTAIN SALE-LEASEBACKS NOT TAKEN INTO ACCOUNT.—Subparagraph (IV) of clause (ii) shall not apply to any property which is leased within 3 months after such property is placed in service by the tax-exempt entity (or any related entity).

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as used by a tax-exempt entity merely by reason of use pursuant to a short-term lease.

"(ii) PROPERTY OTHER THAN 20-YEAR PROPERTY.—For purposes of this subparagraph, except as provided in clause (iii), the term 'short-term lease' means any lease which has a lease term not in excess of the greater of—

"(I) 1 year, or

"(II) 30 percent of the property's present class life (to the extent such present class life does not exceed 10 years).

"(iii) 20-YEAR REAL PROPERTY.—For purposes of this subparagraph, in the case of 20-year real property, the term 'short-term lease' means any lease which has a lease term of 3 years or less.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property predominantly used by the tax-exempt entity in an unrelated trade or business the income of which is subject to tax under section 511.

"(E) SPECIAL RULES FOR CERTAIN INTERNATIONAL ORGANIZATIONS.—If any domestic corporation which is not a tax-exempt entity is a member of the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, or any successor organization of either such organization, the term 'tax-exempt use property' shall not include such domestic corporation's proportionate share (determined after the application to tax-exempt entities of rules which are based on the principles of paragraph (9)) of property owned by or leased to such organization or successor organization.

"(4) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

"(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 20 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(I) subject to tax under this chapter, or

"(II) is included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(ii) MOVIES AND SOUND RECORDINGS.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)) or any sound recording (as defined in section 48(r)).

"(C) FOREIGN PERSON OR ENTITY.—For purposes of subparagraph (A), the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection and paragraph (5) of section 48(a), a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if all of the activities of such corporation are subject to tax under this chapter.

"(5) SPECIAL RULES FOR TAX-EXEMPT ORGANIZATIONS.—For purposes of this subsection and paragraph (4) of section 48(a)—

"(A) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—An organization shall be treated as an organization described in subparagraph (A)(ii) of paragraph (4) with respect to any property of which such organization is the lessee if such organization (or a predecessor organization which was engaged in substantially similar activities) was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such organization first used such property.

"(B) ORGANIZATION MAY AVOID APPLICATION OF THIS PARAGRAPH IF IT ELECTS TO BE TAXED.—

"(i) IN GENERAL.—If subparagraph (A) applies to an organization formerly described in section 501(c)(12), such organization shall not be treated as an organization described in subparagraph (A)(ii) of paragraph (4) with respect to any property of which such organization is the lessee if such organization elects, in such manner and at such time as the Secretary may prescribe, not to be exempt from tax imposed by this chapter during the tax-exempt use period.

"(ii) TAX-EXEMPT USE PERIOD.—For purposes of clause (i), the term 'tax-exempt use period' means the period—

"(I) beginning with the taxable year in which the property described in clause (i) is placed in service, and

"(II) ending with the close of the 15th taxable year following the last taxable year of the recovery period with respect to such property.

"(iii) ELECTION TO APPLY TO SUCCESSOR ORGANIZATIONS.—Any election under clause (i) shall apply to any successor organization which is engaged in substantially similar activities.

"(iv) ELECTION IRREVOCABLE.—Any election under clause (i), once made, is irrevocable.

"(6) SPECIAL RULES FOR SHORT-LIVED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax-exempt use property' shall not include property with a present class life of 6 years or less.

"(B) PARAGRAPH NOT TO APPLY IF LEASE TERM EXCEEDS CERTAIN PERIOD.—Subparagraph (A) shall not apply to any property which is used by a tax-exempt entity pursuant to a lease if the term of the lease exceeds—

"(i) except as provided in clause (ii), 75 percent of the present class life of the property, or

"(ii) in the case of property with a present class life of 6 years, 5 years.

"(C) SPECIAL RULE FOR HIGH TECHNOLOGY MEDICAL EQUIPMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), high technology medical equipment shall be treated as property with a present class life of 6 years.

"(ii) EXCEPTION WHERE SECRETARY DETERMINES PROPERTY NOT SHORT-LIVED.—Clause (i) shall not apply to any property placed in service after the date on which the Secretary publishes in the Federal Register final regulations under which such property is determined to have a present class life greater than 6 years.

"(iii) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this subparagraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(7) SPECIAL RULES RELATING TO LEASE TERMS.—

"(A) LEASE TERM.—In determining a lease term for purposes of this subsection—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are entered into—

"(I) as part of the same transaction, and

"(II) with respect to the same or substantially similar property,

shall be treated as 1 lease.

"(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS.—For purposes of clause (i) of subparagraph (A), in the case of 15-year real property, there shall not be taken into account any option to renew at fair rental value, determined at the time of the renewal.

"(8) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership; or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection, section 46(f), paragraph (4) or (5) of section 48(a), or clause (vi) of section 48(g)(2)(B).

"(9) TREATMENT OF PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—If—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is held by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

such tax-exempt entity's proportionate share of such property shall be treated as tax-exempt use property of the partnership.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same percentage share of each item of income, gain, loss, deduction, credit, and basis of the partnership during the entire period the entity is a partner in the partnership, and

"(ii) meets the requirements of section 704(b)(2).

For purposes of clause (i), items allocated under section 704(c) shall not be taken into account.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property held by a partnership shall be determined on the basis of such entity's share of partnership distributions or partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership distributions or partnership items of income or gain (excluding gain allocated under section 704(c)), may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) OTHER PASS-THRU ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), and (C) shall also apply in the case of any trust or other pass-thru entity.

"(k) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES.—For purposes of this chapter—

"(1) IN GENERAL.—A contract which purports to be a service contract shall not be treated as a service contract if such contract is more properly treated as a lease of property, taking into account all relevant factors including whether or not—

"(A) the service recipient is in physical possession of the property,

"(B) the service recipient controls the property,

"(C) the service recipient has a significant economic or possessory interest in the property,

"(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

"(E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the tax-exempt entity, and

"(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

"(2) OTHER ARRANGEMENTS.—An arrangement (including a partnership or other pass-through entity) which is not a service contract and which purports not to be a lease shall be treated as a lease if such arrangement is more properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

"(3) SPECIAL RULES FOR CONTRACTS OR ARRANGEMENTS INVOLVING SOLID WASTE DISPOSAL, ENERGY, AND CLEAN WATER FACILITIES.—Notwithstanding paragraph (1) or (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient—

"(A) with respect to—

"(i) the operation of a qualified solid waste disposal facility,

"(ii) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility,

"(iii) the providing of energy conservation or energy management services, or

"(iv) the operation of a water treatment works facility, and

"(B) which purports to be a service contract,

shall be treated as a service contract.

"(4) PARAGRAPH (3) NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (3) shall not apply to any facility or property used under a contract or arrangement described in such paragraph if—

"(i) the service recipient (or a related entity) operates such facility or property,

"(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

"(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility or property are less than the standards of performance or operation under the contract or arrangement, or

"(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility or such property at a fixed and determinable price (other than for fair market value).

"(B) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) WITH RESPECT TO CERTAIN RIGHTS AND ALLOCATIONS UNDER THE CONTRACT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any right of a service recipient to inspect any facility or property, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

"(ii) any allocation of any financial burden or benefits in the event of any change in any law.

"(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) IN THE CASE OF CERTAIN EVENTS.—

"(i) TEMPORARY SHUT-DOWNS, ETC.—For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility or property for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or other financial difficulty of the service provider.

"(ii) REDUCED COSTS.—For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products,

"(5) DEFINITIONS.—For purposes of paragraph (3)—

"(A) QUALIFIED SOLID WASTE DISPOSAL FACILITY.—The term 'qualified solid waste disposal facility' means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

"(B) COGENERATION FACILITY.—The term 'cogeneration facility' means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

"(C) ALTERNATIVE ENERGY FACILITY.—The term 'alternative energy facility' means a facility for producing electrical or thermal energy if the primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

"(D) WATER TREATMENT WORKS FACILITY.—The term 'water treatment works facility' means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this subsection.".

(b) DENIAL OF INVESTMENT TAX CREDIT FOR PROPERTY USED BY FOREIGN GOVERNMENTS AND OTHER FOREIGN PERSONS.—

(1) Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended by striking out the first and second sentences and inserting in lieu thereof the following:

"Property used—

"(A) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(B) by any foreign person or entity (as defined in section 168(j)(4)(C)), but only with respect to property to which section 168(j)(4)(A)(iii) applies (determined after the application of section 168(j)(4)(B)),

shall not be treated as section 38 property other than for purposes of the rehabilitation investment credit. The preceding sentence shall not apply to any property to the extent such property is treated as not being tax-exempt use property under section 168(j)(3)(E) (relating to special rule for certain international organizations).".

(2) The heading of paragraph (5) of section 48(a) is amended by striking out "GOVERNMENTAL UNITS" and inserting in lieu thereof "GOVERNMENTAL UNITS AND CERTAIN FOREIGN PERSONS".

(c) REHABILITATION CREDIT NOT TO APPLY TO TAX-EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Subparagraph (B) of section 48(g)(2) (relating to certain expenditures not treated as qualified rehabilitation expenditures) is amended by adding at the end thereof the following new clause:

"(vi) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be ex-

pected to be) tax-exempt use property (within the meaning of section 168(j)(3)).

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.".

(2) TECHNICAL AMENDMENT.—Clause (i) of section 48(g)(2)(B) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any expenditure to the extent subsection (f)(12) or (j) of section 168 applies to such expenditure.".

(d) SHORT-TERM USE RULES FOR PURPOSES OF INVESTMENT TAX CREDIT.—Section 48(a) (defining section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL SHORT-TERM USE RULES FOR PURPOSES OF PARAGRAPHS (4) AND (5).—

"(A) IN GENERAL.—Paragraphs (4) and (5) shall not apply to any property for any taxable year if such property is used by a tax-exempt organization described in either such paragraph (or any related tax-exempt entity) for less than 6 months during such taxable year (determined after application of section 168(j)(7)) under a lease or other arrangement the term of which is less than 6 months.

"(B) EXCEPTION FOR CERTAIN OIL DRILLING PROPERTY AND CERTAIN CONTAINERS.—In the case of—

"(i) property which is used in offshore drilling for oil and gas, including drilling vessels, barges, platforms, and drilling equipment and support vessels, and

"(ii) any container described in section 48(a)(2)(B)(v) (without regard to whether such container is used outside the United States) or any container chassis or container trailer with a present class life of not more than 6 years,

rules similar to the rules of section 168(j)(3)(C) shall apply for purposes of paragraphs (4) and (5).".

(e) INVESTMENT TAX CREDIT ALLOWABLE WITH RESPECT TO CERTAIN FACILITIES.—Paragraph (5) of section 48(a) (relating to property used by governmental units), is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any facility or property subject to a contract or agreement to which section 168(k)(3) applies.".

(f) INVESTMENT TAX CREDIT FOR PROPERTY LEASED BY CERTAIN PERSONS NOT TO EXCEED CREDIT ALLOWED IF SUCH PERSONS OWNED PROPERTY.—Section 46(e) (relating to limitations with respect to certain persons) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES WHERE SECTION 593 ORGANIZATION IS LESSEE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), if an organization described in section 593 is the lessee of any section 38 property, the lessor of such property shall be treated as an organization described in section 593.

"(B) EXCEPTION FOR SHORT-TERM LEASES.—This paragraph shall not apply to any property for any taxable year if such property is used by the organization described in section 593 for less than 6 months during such taxable year (determined after application of section 168(j)(7)) under a lease or other arrangement the term of which is less than 6 months.".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply—

(A) to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date, and

(B) to property placed in service by the taxpayer on or before May 23, 1983, if the use by the tax-exempt entity is pursuant to a lease entered into after May 23, 1983.

(2) LEASES ENTERED INTO ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity if such use is pursuant to—

(A) a lease entered into on or before May 23, 1983 (or a sublease under such a lease), or

(B) any renewal or extension of a lease entered into on or before May 23, 1983, if such renewal or extension is pursuant to an option exercisable by the tax-exempt entity which was contained in such lease on May 23, 1983.

(3) BINDING CONTRACTS, ETC.—The amendments made by this section shall not apply with respect to any property used by a tax-exempt entity if such use is pursuant to 1 or more written binding contracts which, on May 23, 1983, and at all times thereafter, required—

(A) the taxpayer (or his predecessor in interest under the contract) to acquire, construct, reconstruct, or rehabilitate such property, and

(B) the tax-exempt entity (or a tax-exempt predecessor thereof) to use such property.

(4) PROPERTY USED BY THE POSTAL SERVICE.—In the case of property used by the United States Postal Service, paragraphs (1) and (2) shall be applied by substituting "October 31" for "May 23".

(5) MASS COMMUTING VEHICLES.—The amendments made by this section shall not apply to any qualified mass commuting vehicle (as defined in section 103(b)(9) of the Internal Revenue Code of 1954) which is financed in whole or in part by obligations the interest on which is excludable from gross income under section 103(a) of such Code if—

(A) such vehicle is placed in service before January 1, 1988, or

(B) such vehicle is placed in service on or after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) CERTAIN TURBINES AND BOILERS.—The amendments made by this section shall not apply to any property described in section 208(d)(3)(E) of the Tax Equity and Fiscal Responsibility Act of 1982.

(7) CERTAIN FACILITIES FOR WHICH RULING REQUESTS FILED ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any facilities described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (relating to certain sewage or solid waste disposal facilities), as in effect on the day before the date of the enactment of this Act, if a ruling request with respect to the use of such facility by the tax-exempt entity was filed with the Internal Revenue Service on or before May 23, 1983.

(8) EXCEPTION FOR CERTAIN PROJECTS WHERE QUALIFYING ACTIONS TAKEN.—

(A) IN GENERAL.—The amendments made by this section shall not apply with respect to property placed in service in connection with projects described in the following table:

Project	Location	Qualifying Action	Date of Action
Paramount Theater	Portland, Oregon	Appropriation of funds	January 14, 1981
Ordway Music Theater	St. Paul, Minnesota	Resolution authorizing sale-lease-back	January 12, 1983
Westside Convention Center	New York, New York	Legislation authorizing construction	April 3, 1979
Sabine Laboratory	Denver, Colorado	Purchased building	July, 1982
Share-HMO	Minneapolis-St. Paul, Minnesota	Bonds issued	September 17, 1982
Kleinhans Music Hall and Shea's Buffalo Theater	Buffalo, New York	Federal legislation enacted	March 24, 1983
Presbyterian Hospital, Harrison-Walnu Neighborhood project	Oklahoma City, Oklahoma	Inducement resolution adopted UDAG application	April 25, 1983 April 28, 1983
St. Paul Civic Center	St. Paul, Minnesota	Inducement resolution adopted	April 21, 1983
Saratoga Springs City Convention Center	Saratoga Springs, New York	State law creating authority	July 27, 1983
Atlantic City Convention Hall	Atlantic City, New Jersey	Bond resolution adopted	December 8, 1982
Old Main Building	Fayetteville, Arkansas	Authorized by State law	October 31, 1983
Snug Harbor Children's Museum	New York, New York	Construction begun	Before May 23, 1983
Roger L. Stevens Center	Winston-Salem, North Carolina	Congressional approval of enabling legislation	Before May 23, 1983
44 Beaver St.	New York, New York	$3,700,000 budgeted for 1983	1983
San Antonio Convention Center	San Antonio, Texas	Approved feasibility study and design	Before May 23, 1983
Penn Station	Newark, New Jersey	Purchase negotiations begun	Before October 31, 1983
Los Angeles Public Library	Los Angeles, California	$250,000 spent on design	Before May 23, 1983
Philadelphia Convention Center	Philadelphia, Pennsylvania	Feasibility study, as approved by inducement resolution of Philadelphia Authority for Industrial Development on December 20, 1983	June 10, 1982
Oakland Convention Center	Oakland, California	Project completed	Before May 23, 1983
San Francisco Ferry Building	San Francisco, California	Feasibility study approved and negotiations begun	Before May 23, 1983
San Francisco Stadium	San Francisco, California	City spent $300,000 for consultant study, which is completed	June, 1983
Sacramento Municipal Utility District	Sacramento, California	Agreements signed	Before May 23, 1983
Convention Center Project	Industry Hills, California	Studies completed negotiations begun	Before May 23, 1983
Ventura Parking Facility	Ventura, California	Negotiations completed	Before May 23, 1983
City Hall/Public Auditorium	Riverside, California	Study begun, $375,000 spent	Before May 23, 1983
UCLA Royce Hall Renovation	Los Angeles, California	Planning and design complete, construction begun	Before May 23, 1983
UCSD Campus Clinical Center	San Diego, California	University financed study begun	Before May 23, 1983
San Diego California Health Services Complex	San Diego, California	Request for proposal issued negotiations begun	Before May 23, 1983
Office of Power Building	Chattanooga, Tennessee	Construction contract signed	November 19, 1980
St. Ignatius College Prep	Chicago, Illinois	Illinois State Board of Conservation approval	March 23, 1983
Anchorage Waste-Energy Project	Anchorage Borough, Alaska	Negotiations begun	April, 1983
Buluga Station	Anchorage Borough, Alaska	Negotiations begun	Before October, 1983
Bernice Lake Station	Kenai Peninsula, Alaska	Negotiations begun	Before October, 1983

Project	Location	Qualifying Action	Date of Action
City of Bethel Housing Project	Bethel, Alaska	Under construction	March 14, 1983
Mt. Vernon Mills State Museum	Columbia, South Carolina	Appropriation of funds for feasibility	June 21, 1983
Mills-Babcock Complex	Columbia, South Carolina	Approval by Governor and Budget and Control	Before November 30, 1983
Lexington County Hospital Medical Office Building	West Columbia, South Carolina	Inducement Resolution adopted	January 11, 1983
Harden Street Medical Office Building	Columbia, South Carolina	Inducement Resolution adopted	April 19, 1983
Sebring Utilities Commission Building	Sebring, Florida	Sought revenue ruling	Before July 21, 1983
Salt Lake City Office Building	Salt Lake City, Utah	Significant governmental action	Before May 23, 1983
Battle Creek City Hall and Police Department Buildings and the attendent parking lots	Battle Creek, Michigan	Authorizing resolution	May 17, 1983
Downtown Convention Hotel Centre	Tampa, Florida	Request for proposals	July 29, 1983
Pinellas Sports Authority Stadium	St. Petersburg, Florida	Official government action	Before May 23, 1983
Lexington Market Arcade	Baltimore, Maryland	Official approval and significant expenditures	Before May 23, 1983
Baltimore City Zoo Hospital	Baltimore, Maryland	Official approval and significant expenditures	Before May 23, 1983
Culinary Arts Institute	Baltimore, Maryland	Official approval and significant expenditures	Before May 23, 1983
Wilmington Woods Project	Dayton, Ohio	Substantial expenditures	Before September 30, 1983
Clemson University Institute of Government and Public Affairs	Clemson, South Carolina	Substantial sums expended	Before May 23, 1983
Rushmore Plaza Civic Center	Rapid City, South Dakota	Inducement resolution	May 31, 1983
Masonic Temple Building	Denver Colorado	Binding contract to sell and lease back	June 24, 1983
St. Stephen's Gilmour Academy	Gates Mills, Ohio	Executive committee approval	February 28, 1983
Metropolitan Center for High Technology	Detroit, Michigan	UDAG Application Expenditure of funds by State of Michigan	Before May 23, 1983
The Madison Center	Detroit, Michigan	Approval of UDAG Application	April 2, 1983
Teachers Federal Credit Union	Farmingville, New York	Construction Completed	Before May 23, 1983
Wittner Center Parking Structure	St. Petersburg, Florida	Total city funds of over $600,000 expended on project	Before May 23, 1983
Pier Park Recreation Complex	St. Petersburg, Florida	Resolution approving development services contract	April 6, 1983
Salve Regina College	Newport, Rhode Island	Formal proposal presented	Before December 31, 1983
Old Wayne County Building	Detroit, Michigan	Feasibility study and design approved	June 23, 1983
St. Francis Community Hospital Medical Office Building	Greenville, South Carolina	Inducement resolution adopted	October 4, 1983
Providence Hospital Medical Office Building II	Columbia, South Carolina	Inducement resolution adopted	September 6, 1983
Milwaukee Arts District Project	Milwaukee, Wisconsin	Authorization and Commitment of funds	Before December 31, 1983
Morrison Hotel	Seattle, Washington	Approval by city council	October, 1982
Doctors Medical Plaza	Oklahoma, City, Oklahoma	Inducement resolution adopted	August 4, 1983
Montgomery Fair Building	Montgomery, Alabama	Negotiations begun	June, 1982
Providence Hebrew Day School	Providence, Rhode Island	Board of Directors approval	December, 1982
West Building Project	Providence, Rhode Island	Inducement resolution adopted	February 28, 1983
Garbose Building	Gardner, Massachusetts	Construction scheduled	Before July, 1983
Memorial Hall Library	Andover, Massachusetts	City Authorization of sale leaseback	April, 1983
Capital Mall Development Project	Nashville, Tennessee	Substantial sums expended	Before October 25, 1983
Tulane Central Building	New Orleans, Louisiana	Financial analysis completed	May, 1983
GE VA Theatre	Rochester, New York	City ordinance authorizing purchase option	December, 1982

(B) LIMITATION.—Subparagraph (A) shall only apply to the extent such property (including existing property) was substantially included or contemplated in such project at the time of the qualifying action.

(9) EXISTING APPROPRIATIONS.—The amendments made by this section shall not apply to personal property leased to or used by the United States if—

(A) an express appropriation has been made for rentals under such lease for the fiscal year 1983 before May 23, 1983, and

(B) the United States or an agency or instrumentality thereof has not provided an indemnification against the loss of all or a portion of the tax benefits claimed under the lease or service contract.

(10) SPECIAL RULES RELATING TO FOREIGN PERSONS OR ENTITIES.—

(A) IN GENERAL.—In the case of tax-exempt use property which is used by a foreign person or entity, the amendments made by this section shall not apply to any property which—

(i) is placed in service before January 1, 1984, and

(ii) is used by such foreign person or entity pursuant to a lease entered into before January 1, 1984.

(B) SPECIAL RULE FOR SUBLEASES.—If tax-exempt use property is being used by a foreign person or entity pursuant to a sublease under a lease described in subparagraph (A)(ii), subparagraph (A) shall apply to such property only if such property was used before January 1, 1984, by any foreign person or entity pursuant to such lease.

(C) 50 PERCENT OF INVESTMENT CREDIT ALLOWED FOR PROPERTY PLACED IN SERVICE DURING 1984.—Notwithstanding the amendment made by subsection (b), in the case of property which—

(i) is placed in service during 1984, and

(ii) is used during 1984 by a foreign person or entity pursuant to a lease entered into before 1985,

there shall be allowed with respect to such property 50 percent of the amount of the credit otherwise allowable under section 38 of the Internal Revenue Code of 1954 (determined without regard to the amendment made by subsection (b)).

(11) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—

(A) IN GENERAL.—Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any property acquired, directly or indirectly, before January 1, 1985, by any partnership described in subparagraph (B) or (C).

(B) PARTNERSHIP ORGANIZED BEFORE OCTOBER 21, 1983.—A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized and publicly announced the maximum amount of interests which would be sold in the partnership, and

(ii) the marketing of partnership interests in such partnership was completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interest in such partnership sold does not exceed the maximum amount described in clause (ii).

(C) APPLICATION FILED BEFORE OCTOBER 21, 1983.—A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum amount of interests in the partnership that would be offered had been circulated,

(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

(iii) the marketing of partnership interests in such partnership is completed not later than the 90th day after the latter of the date of enactment of this Act or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate amount of interests in such partnership sold does not exceed the amount described in clause (i).

(12) SPECIAL RULE FOR SERVICE CONTRACTS NOT INVOLVING TAX-EXEMPT ENTITIES.—In the case of a service contract or other arrangement described in section 168(k) of the Internal Revenue Code of 1954 (as added by this section) with respect to which no party is a tax-exempt entity, such section 168(k) shall not apply to—

(A) such contract or other arrangement if such contract or other arrangement was entered into before November 5, 1983, or

(B) any renewal or other extension of such contract arrangement pursuant to an option contained in such contract or other arrangement on November 5, 1983.

(13) DEFINITIONS.—For purposes of this subsection—

(A) TAX-EXEMPT ENTITY DEFINED.—The term "tax-exempt entity" has the same meaning as when used in section 168(j) of the Internal Revenue Code of 1954 (as added by this section), except that such term shall include any related entity (within the meaning of such section).

(B) FOREIGN PERSON OR ENTITY DEFINED.—The term "foreign person or entity" has the meaning given to such term by section 168(j)(4)(C) of such Code (as added by this section).

SEC. 23. MOTOR VEHICLE OPERATING LEASES.

(a) IN GENERAL.—Section 168(f) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(13) MOTOR VEHICLE OPERATING LEASES.—

"(A) IN GENERAL.—For purposes of this title, the fact that a motor vehicle operating agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MOTOR VEHICLE OPERATING AGREEMENT.—The term 'motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) under which the lessor—

"(I) is personally liable for the repayment of, or

"(II) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by

indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement.

"(ii) TERMINAL RENTAL ADJUSTMENT CLAUSE.—The term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.".

(b) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN THAT HE WAS OWNER.—Section 210 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN.—Subsection (a) shall not apply to deny a deduction for interest paid or accrued claimed by a lessee with respect to a qualified motor vehicle agreement on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954 which was filed before the date of the enactment of this Act or to deny a credit for investment in depreciable property claimed by the lessee on such a return pursuant to an agreement with the lessor that the lessor would not claim the credit.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to agreements described in section 168(f)(13) of the Internal Revenue Code of 1954 (as added by subsection (a)) whether entered into before, on, or after the date of the enactment of this Act.

(2) POSITION ON RETURN.—The amendment made by subsection (b) shall take effect as if included in the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982.

Subtitle C—Treatment of Bonds and Other Debt Instruments

SEC. 25. TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) GENERAL RULE.—Subchapter P of chapter 1 (relating to special rules for capital gains and losses) is amended by adding at the end thereof the following new part:

"PART V—SPECIAL RULES FOR BONDS AND OTHER DEBT INSTRUMENTS

"Subpart A. Original issue discount.

"Subpart B. Market discount.

"Subpart C. Discount on short-term obligations.

"Subpart D. Miscellaneous provisions.

"Subpart A—Original Issue Discount

"Sec. 1271. Treatment of amounts received on retirement or sale or exchange of debt instruments.

"Sec. 1272. Current inclusion in income of original issue discount.

"Sec. 1273. Determination of amount of original issue discount.

"Sec. 1274. Determination of issue price in the case of certain debt instruments issued for property.

"Sec. 1275. Other definitions and special rules.

"SEC. 1271. TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.

"(a) GENERAL RULE.—For purposes of this subtitle, in the case of debt instruments which are capital assets in the hands of the taxpayer—

"(1) RETIREMENT.—Amounts received by the holder on retirement of such debt instruments shall be considered as amounts received in exchange therefor.

"(2) ORDINARY INCOME ON SALE OR EXCHANGE WHERE INTENTION TO CALL BEFORE MATURITY.—

"(A) IN GENERAL.—If at the time of original issue there was an intention to call any such debt instrument before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to—

"(i) the original issue discount, reduced by

"(ii) the portion of original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)),

shall be treated as ordinary income.

"(B) EXCEPTIONS.—This paragraph (and paragraph (2) of subsection (c)) shall not apply to—

"(i) any tax-exempt obligation, or

"(ii) any holder who has purchased the debt instrument at a premium.

"(3) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any such debt instrument which is a short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is—

"(i) issued on a discount basis, and

"(ii) payable without interest at a fixed maturity not more than 1 year from the date of issue.

Such term does not include any tax-exempt obligation.

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.

"(b) EXCEPTIONS.—This section shall not apply to—

"(1) NATURAL PERSONS.—Any obligation issued by a natural person.

"(2) OBLIGATIONS ISSUED BEFORE JULY 2, 1982, BY CERTAIN ISSUERS.—Any obligation issued before July 2, 1982, by an issuer which—

"(A) is not a corporation, and

"(B) is not a government or political subdivision thereof.

"(c) TRANSITION RULES.—

"(1) SPECIAL RULE FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1955.—Paragraph (1) of subsection (a) shall apply to a debt instrument issued before January 1, 1955, only if such instrument was issued with interest coupons or in registered form, or was in such form on March 1, 1954.

"(2) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(A) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(i) an amount equal to the original issue discount, or

"(ii) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be treated as ordinary income.

"(B) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(C) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.

"(d) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—This section and sections 1272 and 1286 shall not require the inclusion of any amount previously includible in gross income.

"SEC. 1272. CURRENT INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT.

"(a) ORIGINAL ISSUE DISCOUNT ON DEBT INSTRUMENTS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

"(1) GENERAL RULE.—For purposes of this subtitle, there shall be included in the gross income of the holder of any debt instrument having original issue discount issued after July 1, 1982, an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such debt instrument.

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

"(A) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation.

"(B) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(C) SHORT-TERM GOVERNMENT OBLIGATIONS.—Any short-term government obligation (within the meaning of section 1271(a)(3)(B)).

"(D) OBLIGATIONS ISSUED BY NATURAL PERSONS BEFORE MARCH 2, 1984.—Any obligation issued by a natural person before March 2, 1984.

"(E) LOANS BETWEEN FAMILY MEMBERS.—

"(i) IN GENERAL.—Any amount loaned by an individual to a member of such individual's family (within the meaning of section 267(c)(4)), to the extent that the amount of such loan (when increased by the outstanding amount of prior loans by such individual to such member) does not exceed $10,000.

"(ii) CLAUSE (i) NOT TO APPLY WHERE TAX AVOIDANCE A PRINCIPAL PURPOSE.—Clause (i) shall not apply if the loan has as one of its principal purposes the avoidance of any Federal tax.

"(iii) TREATMENT OF HUSBAND AND WIFE.—For purposes of this subparagraph, a husband and wife shall be treated as one person. The preceding sentence shall not apply where the spouses lived apart at all times during the taxable year in which the loan is made.

"(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any debt instrument shall be determined by allocating to each day in any accrual period its ratable portion of the increase during such accrual period in the adjusted issue price of the debt instrument. For purposes of the

preceding sentence, the increase in the adjusted issue price for any accrual period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the debt instrument at the beginning of such accrual period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each accrual period), over

"(B) the sum of the amounts payable as interest on such debt instrument during such accrual period.

In applying subparagraph (A)(ii) to an accrual period of less than 1 year, proper adjustments shall be made in the yield to maturity.

"(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any debt instrument at the beginning of any accrual period is the sum of—

"(A) the issue price of such debt instrument, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such accrual period.

"(5) ACCRUAL PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'accrual period' means a 1-year period (or the shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the debt instrument.

"(6) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, in the case of any purchase after its original issue of a debt instrument to which this subsection applies, the daily portion shall not include its share of the acquisition premium.

"(B) SHARE OF ACQUISITION PREMIUM.—For purposes of subparagraph (A), any day's share of acquisition premium is an amount (determined at the time of purchase) equal to—

"(i) the excess (if any) of—

"(I) the cost of such debt instrument incurred by the purchaser, over

"(II) the issue price of such debt instrument, increased by the sum of the daily portions for such debt instrument for all days on or before the date of the purchase (computed without regard to this paragraph),

"(ii) divided by the number of days beginning on the day after the date of such purchase and ending on the stated maturity date.

"(b) RATABLE INCLUSION RETAINED FOR CORPORATE DEBT INSTRUMENTS ISSUED BEFORE JULY 2, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any debt instrument issued by a corporation after May 27, 1969, and before July 2, 1982—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such debt instrument during the taxable year.

"(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the debt instrument.

"(3) MONTH DEFINED.—For purposes of this subsection—

"(A) COMPLETE MONTH.—A complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day).

"(B) TRANSFERS DURING MONTH.—In any case where a debt instrument is acquired on any day other than a day determined under subparagraph (A), the ratable monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the debt instrument.

"(4) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include its share of the acquisition premium.

"(B) SHARE OF ACQUISITION PREMIUM.—For purposes of subparagraph (A), any month's share of the acquisition premium is an amount (determined at the time of the purchase) equal to—

"(i) the excess of—

"(I) the cost of such debt instrument incurred by the holder, over

"(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph),

"(ii) divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such debt instrument.

"(c) EXCEPTIONS.—This section shall not apply to any holder—

"(1) who has purchased the debt instrument at a premium, or

"(2) which is a life insurance company to which section 811(b) applies.

"(d) DEFINITION AND SPECIAL RULE.—

"(1) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means—

"(A) any acquisition of a debt instrument, where

"(B) the basis of the debt instrument is not determined in whole or in part by reference to the adjusted basis of such debt instrument in the hands of the person from whom acquired or under section 1014(a) (relating to property acquired from a decedent).

"(2) BASIS ADJUSTMENT.—The basis of any debt instrument in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.

"SEC. 1273. DETERMINATION OF AMOUNT OF ORIGINAL ISSUE DISCOUNT.

"(a) GENERAL RULE.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'original issue discount' means the excess (if any) of—

"(A) the stated redemption price at maturity, over

"(B) the issue price.

"(2) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest payable unconditionally at fixed periodic intervals of 1 year or less during the entire term of the debt instrument).

"(3) ¼ OF 1 PERCENT DE MINIMIS RULE.—If the original issue discount determined under paragraph (1) is less than—

"(A) ¼ of 1 percent of the stated redemption price at maturity, multiplied by

"(B) the number of complete years to maturity,

then the original issue discount shall be treated as zero.

"(b) ISSUE PRICE.—For purposes of this subpart—

"(1) PUBLICLY OFFERED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any issue of debt instruments—

"(A) registered with the Securities and Exchange Commission, and

"(B) not issued for property,

the issue price is the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such debt instruments were sold.

"(2) PRIVATELY PLACED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any privately placed issue of debt instruments not issued for property, the issue price of each such instrument is the price paid by the first buyer of such debt instrument.

"(3) DEBT INSTRUMENTS ISSUED FOR PROPERTY WHERE THERE IS PUBLIC TRADING.—In the case of a debt instrument which is issued for property and which—

"(A) is part of an issue a portion of which is traded on an established securities market, or

"(B) is issued for stock or securities which are traded on an established securities market,

the issue price of such debt instrument shall be the fair market value of such property.

"(4) OTHER CASES.—Except in any case—

"(A) to which paragraph (1), (2), or (3) of this subsection applies, or

"(B) to which section 1274 applies,

the issue price of a debt instrument which is issued for property shall be the stated redemption price at maturity.

"(5) PROPERTY.—In applying this subsection, the term 'property' includes services and the right to use property, but such term does not include money.

"(c) SPECIAL RULES FOR APPLYING SUBSECTION (b).—For purposes of subsection (b)—

"(1) INITIAL OFFERING PRICE; PRICE PAID BY THE FIRST BUYER.—The terms 'initial offering price' and 'price paid by the first buyer' include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof.

"(2) TREATMENT OF INVESTMENT UNITS.—In the case of any debt instrument and an option, security, or other property issued together as an investment unit—

"(A) the issue price for such unit shall be determined in accordance with the rules of this subsection and subsection (b) as if it were a debt instrument,

"(B) the issue price determined for such unit shall be allocated to each element of such unit on the basis of the relationship of the fair market value of such element to the fair market value of all elements in such unit, and

"(C) the issue price of any debt instrument included in such unit shall be the portion of the issue price of the unit allocated to the debt instrument under subparagraph (B).

"(3) SPECIAL RULE FOR EXCHANGE OF DEBT INSTRUMENTS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any debt instrument is issued pursuant to a plan of reorganization (within the

meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the 'old debt instrument'), and

"(ii) the fair market value of the old debt instrument is less than its adjusted issue price,

then, for purposes of paragraph (3) of subsection (b), the fair market value of the old debt instrument shall be treated as equal to its adjusted issue price.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT INSTRUMENT.—The term 'debt instrument' includes an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)).

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction.

"SEC. 1274. DETERMINATION OF ISSUE PRICE IN THE CASE OF CERTAIN DEBT INSTRUMENTS ISSUED FOR PROPERTY.

"(a) IN GENERAL.—In the case of any debt instrument to which this section applies, for purposes of this subpart, the issue price shall be the lesser of—

"(1) the stated principal amount, or

"(2) the imputed principal amount.

"(b) IMPUTED PRINCIPAL AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), the imputed principal amount of any debt instrument shall be equal to the sum of the present values of all payments due under such debt instrument.

"(2) DETERMINATION OF PRESENT VALUE.—For purposes of paragraph (1), the present value of a payment shall be determined in the manner provided by regulations prescribed by the Secretary—

"(A) as of the date of the sale or exchange, and

"(B) by using a discount rate equal to 120 percent of the applicable Federal rate, compounded semiannually.

"(3) FAIR MARKET VALUE RULE IN POTENTIALLY ABUSIVE SITUATIONS.—

"(A) IN GENERAL.—In the case of any potentially abusive situation, the imputed principal amount of any debt instrument received in exchange for property shall not exceed the fair market value of such property.

"(B) POTENTIALLY ABUSIVE SITUATION DEFINED.—For purposes of subparagraph (A), the term 'potentially abusive situation' means—

"(i) a tax shelter (as defined in section 6661(b)(2)(C)(ii)), and

"(ii) any other situation which, by reason of—

"(I) recent sales transactions,

"(II) nonrecourse financing,

"(III) financing with a term in excess of the economic life of the property, or

"(IV) other circumstances,

is of a type which the Secretary specifies by regulations as having potential for tax avoidance.

"(c) DEBT INSTRUMENTS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any debt instrument given in consideration for the sale or exchange of property if—

"(A) the stated redemption price at maturity for such instrument exceeds the imputed principal amount of such debt instrument which would be determined under subsection (b) if a discount rate equal to 110 percent of the applicable Federal rate were used, or

"(B) the stated redemption price at maturity for such instrument exceeds the stated principal amount.

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) SALES FOR LESS THAN $1,000,000 OF FARMS BY INDIVIDUALS OR SMALL BUSINESSES.—

"(i) IN GENERAL.—Any debt instrument received—

"(I) by an individual, estate, or testamentary trust,

"(II) by a corporation which as of the date of the sale or exchange is a small business corporation (as defined in section 1244(c)(3)), or

"(III) by a partnership which as of the date of the sale or exchange meets requirements similar to those of section 1244(c)(3),

as consideration for the sale or exchange of a farm (within the meaning of section 6420(c)(2)) by such individual or entity.

"(ii) $1,000,000 LIMITATION.—Clause (i) shall apply only if it can be determined at the time of the sale or exchange that the sales price cannot exceed $1,000,000. For purposes of the preceding sentence, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(B) SALES OF PRINCIPAL RESIDENCES.—Any debt instrument received by an individual as consideration for the sale or exchange of his principal residence (within the meaning of section 1034).

"(C) SALES INVOLVING TOTAL PAYMENTS OF $250,000 OR LESS.—

"(i) IN GENERAL.—Any debt instrument received as consideration for the sale or exchange of property if the sum of the following amounts does not exceed $250,000:

"(I) the aggregate amount of the payments due under such debt instrument and all other debt instruments received as consideration for the sale or exchange, and

"(II) the aggregate amount of any other consideration to be received for the sale or exchange.

"(ii) CONSIDERATION OTHER THAN DEBT INSTRUMENT TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—For purposes of clause (i), any consideration (other than a debt instrument) shall be taken into account at its fair market value.

"(iii) AGGREGATION OF TRANSACTIONS.—For purposes of this subparagraph, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(D) DEBT INSTRUMENTS WHICH ARE PUBLICLY TRADED OR ISSUED FOR PUBLICLY TRADED PROPERTY.—Any debt instrument to which section 1273(b)(3) applies.

"(E) ANNUITIES.—Any amount the liability for which depends in whole or in part on the life expectancy of 1 or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

"(F) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), any amount contingent on the productivity, use, or disposition of the property transferred.

"(G) SALES OR EXCHANGES TO WHICH SECTION 483(g) APPLIES.—Any debt instrument to the extent section 483(g) (relating to certain land transfers between related persons) applies to such instrument.

"(d) DETERMINATION OF APPLICABLE FEDERAL RATE.—For purposes of this section—

"(1) APPLICABLE FEDERAL RATE.—

"(A) IN GENERAL.—

"In the case of a debt instrument with a term of:	The applicable Federal rate is:
Not over 3 years	The Federal short-term rate.
Over 3 years but not over 9 years.	The Federal mid-term rate.
Over 9 years	The Federal long-term rate.

"(B) DETERMINATION OF RATES.—Within 15 days after the close of—

"(i) the 6-month period ending on September 30 of any calendar year, or

"(ii) the 6-month period ending on March 31 of any calendar year,

the Secretary shall determine the Federal short-term rate, mid-term rate, and long-term rate for such 6-month period.

"(C) EFFECTIVE DATE OF DETERMINATION.—Any Federal rate determined under subparagraph (A) shall—

"(i) apply during the 6-month period beginning on January 1 of the succeeding calendar year in the case of a determination made under subparagraph (B)(i), and

"(ii) apply during the 6-month period beginning on July 1 of the calendar year in the case of a determination made under subparagraph (B)(ii).

"(D) FEDERAL RATE FOR ANY 6-MONTH PERIOD.—For purposes of this paragraph—

"(i) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any 6-month period shall be the rate determined by the Secretary to be equal to the average market yield (during such 6-month period) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 years or less.

"(ii) FEDERAL MID-TERM AND LONG-TERM RATES.—The Federal mid-term rate and long-term rate shall be determined in accordance with the principles of clause (i).

"(2) RATE APPLICABLE TO ANY SALE OR EXCHANGE.—In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange.

"(3) TERM OF DEBT INSTRUMENT.—In determining the term of a debt instrument for purposes of this subsection, under regulations prescribed by the Secretary, there shall be taken into account options to renew or extend.

"SEC. 1275. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) DEBT INSTRUMENT.—The term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness. Except for purposes of section 1271, such term also includes any other obligation.

"(2) ISSUE DATE.—

"(A) DEBT INSTRUMENTS REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION.—In the case of any debt instrument registered with the Securities and Exchange Commission the term 'date of original issue' means the date on which the issue was first issued to the public.

"(B) PRIVATELY PLACED ISSUES.—In the case of any debt instrument to which section

1273(b)(2) applies, the term 'date of original issue' means the date on which the debt instrument was sold by the issuer.

"(C) OTHER DEBT INSTRUMENTS.—In the case of any debt instrument not described in subparagraph (A) or (B), the term 'date of original issue' means the date on which the debt instrument was issued in an exchange.

"(3) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' means any obligation if—

"(A) the interest on such obligation is not includible in gross income under section 103, or

"(B) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(b) INFORMATION REQUIREMENTS.—

"(1) INFORMATION REQUIRED TO BE SET FORTH ON INSTRUMENT.—

"(A) IN GENERAL.—In the case of any debt instrument having original issue discount, the Secretary may by regulations require that—

"(i) the amount of the original issue discount, and

"(ii) the issue date,

be set forth on such instrument.

"(B) SPECIAL RULE FOR PRIVATELY PLACED INSTRUMENTS.—In the case of any privately placed issue of debt instruments, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the debt instrument before any disposition of such instrument by the first buyer.

"(2) INFORMATION REQUIRED TO BE SUBMITTED TO SECRETARY.—In the case of any issue of debt instruments having original issue discount and registered with a Securities and Exchange Commission, the issuer shall (at such time and in such manner as the Secretary shall by regulation prescribe) furnish the Secretary the following information:

"(A) The amount of the original issue discount.

"(B) The issue date.

"(C) Such other information with respect to the issue as the Secretary may by regulations require.

For purposes of the preceding sentence, any person who makes a public offering of stripped bonds (or stripped coupons) shall be treated as the issuer of a debt instrument having original issue discount and registered with the Securities and Exchange Commission.

"(3) EXCEPTIONS.—This subsection shall not apply to any obligation referred to in section 1272(a)(2) (relating to exceptions from current inclusion of original issue discount).

"(4) CROSS REFERENCE.—

"For civil penalty for failure to meet requirements of this subsection, see section 6706.

"(c) TREATMENT OF BORROWER IN THE CASE OF CERTAIN LOANS FOR PERSONAL USE.—

"(1) SECTIONS 11274 AND 483 NOT TO APPLY.—In the case of the obligor under any debt instrument given in consideration for the sale or exchange of property, sections 1274 and 483 shall not apply if such property is personal use property.

"(2) ORIGINAL ISSUE DISCOUNT DEDUCTED ON CASH BASIS IN CERTAIN CASES.—In the case of any debt instrument, if—

"(A) such instrument—

"(i) is incurred in connection with the acquisition or carrying of personal use property, and

"(ii) has original issue discount (determined after the application of paragraph (1)), and

"(B) the obligor under such instrument uses the cash receipts and disbursements method of accounting,

notwithstanding section 163(e), the original issue discount on such instrument shall be deductible only when paid.

"(3) PERSONAL USE PROPERTY.—For purposes of this subsection, the term 'personal use property' means any property substantially all of the use of which by the taxpayer is not in connection with a trade or business of the taxpayer or an activity described in section 212. The determination of whether property is described in the preceding sentence shall be made as of the time of issuance of the debt instrument.

"(d) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, indefinite maturities, contingent payments, or other circumstances, the tax treatment under this subpart (or section 163(e)) does not carry out the purposes of this subpart (or section 163(e)), such treatment shall be modified to the extent necessary to carry out the purposes of this subpart (or section 163(e)).

"(e) CROSS REFERENCE.—

"For rules relating to annual interest amounts in the case of certain deferred payments, see section 467.

"Subpart B—Market Discount on Bonds

"SEC. 1276. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME.

"(a) ORDINARY INCOME.—

"(1) IN GENERAL.—Except as otherwise provided in this section, gain on the disposition of any market discount shall be treated as ordinary income to the extent it does not exceed the accrued market discount on such bond. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITIONS OTHER THAN SALES, ETC.—For purposes of paragraph (1), a person disposing of any market discount bond in any transaction other than a sale, exchange, or involuntary conversion shall be treated as realizing an amount equal to the fair market value of the bond.

"(3) GAIN TREATED AS INTEREST FOR CERTAIN PURPOSES.—Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount treated as ordinary income under paragraph (1) shall be treated as interest for purposes of this title.

"(b) ACCRUED MARKET DISCOUNT.—For purposes of this section—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection or subsection (c), the accrued market discount on any bond shall be an amount which bears the same ratio to the market discount on such bond as—

"(A) the number of days which the taxpayer held the bond, bears to

"(B) the number of days after the date the taxpayer acquired the bond and up to (and including) the date of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any bond, the accrued market discount on such bond shall be the aggregate amount which would have been includible in the gross income of the taxpayer under section 1272(a) with respect to such bond for all periods during which the bond was held by the taxpayer if such bond had been—

"(i) originally issued on the date on which such bond was acquired by the taxpayer,

"(ii) for an issue price equal to the adjusted basis of the taxpayer in such bond immediately after its acquisition.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of applying subparagraph (A)—

"(i) the stated redemption price at maturity of such bond shall be treated as equal to its revised issue price, and

"(ii) the determination of the portion of the original issue discount which would have been includible in the gross income of the taxpayer under section 1272(a) shall be made under regulations prescribed by the Secretary.

"(C) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any bond, shall be irrevocable.

"(c) TREATMENT OF NONRECOGNITION TRANSACTIONS.—Under regulations prescribed by the Secretary—

"(1) TRANSFERRED BASIS PROPERTY.—If a market discount bond is transferred in a nonrecognition transaction and such bond is transferred basis property in the hands of the transferee, for purposes of determining the amount of the accrued market discount with respect to the transferee—

"(A) the transferee shall be treated as having acquired the bond on the date on which it was acquired by the transferor for an amount equal to the basis of the transferor, and

"(B) proper adjustments shall be made for gain recognized by the transferor on such transfer (and for any original issue discount or market discount included in the gross income of the transferor).

"(2) EXCHANGED BASIS PROPERTY.—If any market discount bond is disposed of by the taxpayer in a nonrecognition transaction and paragraph (1) does not apply to such transaction, any accrued market discount determined with respect to the property disposed of to the extent not theretofore treated as ordinary income under subsection (a)—

"(A) shall be treated as accrued market discount with respect to the exchanged basis property received by the taxpayer in such transaction if such property is a market discount bond, and

"(B) shall be treated as ordinary income on the disposition of the exchanged basis property received by the taxpayer in such exchange if such property is not a market discount bond.

"(3) PARAGRAPH (1) TO APPLY TO CERTAIN DISTRIBUTIONS BY CORPORATIONS OR PARTNERSHIPS.—For purposes of paragraph (1), if the basis of any market discount bond in the hands of a transferee is determined under section 334(c), 732(a), or 732(b), such property shall be treated as transferred basis property in the hands of such transferee.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules of subsection (b) of section 1245 shall apply for purposes of this section; except that—

"(A) paragraph (1) of such subsection shall not apply, and

"(B) an exchange qualifying under section 354(a), 355(a), or 356(a) (determined without regard to subsection (a) of this section) shall be treated as an exchange described in paragraph (3) of such subsection, and

"(2) appropriate adjustments shall be made to the basis of any property to reflect gain recognized under subsection (a).

"(e) SECTION NOT TO APPLY TO MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—This section shall not apply to any market discount bond issued on or before the date of the enactment of this section.

"SEC. 1277. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any market discount bond shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the portion of the market discount allocable to the days during the taxable year on which such bond was held by the taxpayer (as determined under the rules of section 1276(b)).

"(b) DISALLOWED DEDUCTION ALLOWED FOR YEAR OF DISPOSITION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the disallowed interest expense with respect to any market discount bond shall be treated as interest paid or accrued by the taxpayer in the taxable year in which such bond is disposed of.

"(2) NONRECOGNITION TRANSACTIONS.—If any market discount bond is disposed of in a nonrecognition transaction (as defined in section 7701(a)(45))—

"(A) the disallowed interest expense with respect to such bond shall be treated as interest paid or accrued in the year of disposition only to the extent of the amount of gain recognized on such disposition, and

"(B) the disallowed interest expense with respect to such property (to the extent not so treated) shall be treated as disallowed interest expense—

"(i) in the case of a transaction described in section 1276(c)(1), of the transferee with respect to the transferred basis property, or

"(ii) in the case of a transaction described in section 1276(c)(2), with respect to the exchanged basis property.

"(3) DISALLOWED INTEREST EXPENSE.—For purposes of this subsection, the term 'disallowed interest expense' means the aggregate amount disallowed under subsection (a) with respect to the market discount bond.

"(c) NET DIRECT INTEREST EXPENSE.—For purposes of this section, the term 'net direct interest expense' means, with respect to any market discount bond, the excess (if any) of—

"(1) the amount of interest paid or accrued during the taxable year on indebtedness which is incurred or continued to purchase or carry such bond, over

"(2) the aggregate amount of interest (including original issue discount) includible in gross income for the taxable year with respect to such bond.

In the case of any financial institution to which section 585 or 593 applies, the determination of whether interest is described in paragraph (1) shall be made under principles similar to the principles of section 291(e)(1)(B)(ii).

"(d) SPECIAL RULE FOR GAIN RECOGNIZED ON DISPOSITION OF MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—In the case of a market discount bond issued on or before the date of the enactment of this section, any gain recognized by the taxpayer on any disposition of such bond shall be treated as ordinary income to the extent the amount of such gain does not exceed the amount of the disallowed interest expense with respect to such bond allowable under subsection (b)(1) for the taxable year in which such bond is disposed of.

"SEC. 1278. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this part—

"(1) MARKET DISCOUNT BOND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'market discount bond' means any bond having market discount.

"(B) EXCEPTIONS.—The term 'market discount bond' shall not include—

"(i) SHORT-TERM OBLIGATIONS.—Any obligation with a fixed maturity date not exceeding 1 year from the date of issue.

"(ii) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation (as defined in section 1275(a)(3)).

"(iii) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(2) MARKET DISCOUNT.—

"(A) IN GENERAL.—The term 'market discount' means the excess (if any) of—

"(i) the stated redemption price of the bond at maturity, over

"(ii) the adjusted basis of such bond immediately after its acquisition by the taxpayer.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of subparagraph (A), the stated redemption price of such bond at maturity shall be treated as equal to its revised issue price.

"(C) DE MINIMIS RULE.—If the market discount is less than ¼ of 1 percent of the stated redemption price of the bond at maturity multiplied by the number of complete years to maturity (after the taxpayer acquired the bond), then the market discount shall be considered to be zero.

"(D) EXCEPTION FOR GAIN REPORTABLE UNDER SECTION 453.—The term 'market discount' shall not include any income reportable under section 453, except to the extent of accrued market discount not recognized on the disposition of any market discount bond in exchange for an installment obligation.

"(3) BOND.—The term 'bond' means any bond, debenture, note, certificate, or other evidence of indebtedness.

"(4) REVISED ISSUE PRICE.—The term 'revised issue price' means of the sum of—

"(A) the issue price of the bond, and

"(B) the aggregate amount of the original issue discount includible in the gross income of all holders for periods before the acquisition of the bond by the taxpayer (determined without regard to section 1272(a)(6)).

"(5) ORIGINAL ISSUE DISCOUNT, ETC.—The terms 'original issue discount', 'stated redemption price at maturity', and 'issue price' have the respective meanings given such terms by subpart A of this part.

"(b) ELECTION TO INCLUDE MARKET DISCOUNT CURRENTLY.—

"(1) IN GENERAL.—If the taxpayer makes an election under this subsection—

"(A) sections 1276 and 1277 shall not apply, and

"(B) market discount on any market discount bond shall be included in the gross income of the taxpayer for the taxable years to which it is attributable (as determined under the rules of subsection (b) of section 1276).

"(2) SCOPE OF ELECTION.—An election under this subsection shall apply to all market discount bonds acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this subsection shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subpart.

"Subpart C—Discount on Short-Term Obligations

"SEC. 1281. ELECTION FOR CURRENT INCLUSION IN INCOME OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.

"(a) IN GENERAL.—In the case of any short-term obligation to which an election under this section applies, for purposes of this title, there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such bond.

"(b) ELECTION TO HAVE SECTION APPLY.—

"(1) IN GENERAL.—A taxpayer may make an election under this section to have this section apply to all short-term obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

"(2) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1282. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED DISCOUNT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the sum of the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation.

"(b) SECTION NOT TO APPLY TO OBLIGATIONS TO WHICH ELECTION UNDER SECTION 1281 APPLIES.—This section shall not apply to any short-term obligation to which an election under section 1281 applies.

"(c) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (b), (c), and (d) of section 1277 shall apply for purposes of this section.

"(d) CROSS REFERENCE.—

"For special rules limiting the application of

this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1283. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) SHORT-TERM OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'short-term obligation' means any bond, debenture, note, certificate, or other evidence of indebtedness which has a fixed maturity day not exceeding 1 year from the date of issue.

"(B) EXCEPTIONS FOR TAX-EXEMPT OBLIGATIONS.—The term 'short-term obligation' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).

"(2) ACQUISITION DISCOUNT.—The term 'acquisition discount' means the excess of—

"(A) the stated redemption price at maturity (as defined in section 1273), over

"(B) the taxpayer's basis for the obligation.

"(b) DAILY PORTION.—For purposes of this subpart—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection, the daily portion of the acquisition discount is an amount equal to—

"(A) the amount of such discount, divided by

"(B) the number of days after the day on which the taxpayer acquired the obligation and up to (and including) the day of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any obligation, the daily portion of the acquisition discount for any day is the portion of the acquisition discount accruing on such day determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any obligation, shall be irrevocable.

"(c) SPECIAL RULES FOR NONGOVERNMENTAL OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any short-term obligation which is not a short-term Government obligation (as defined in section 1271(a)(3)(B))—

"(A) sections 1281 and 1282 shall be applied by taking into account original issue discount in lieu of acquisition discount, and

"(B) appropriate adjustments shall be made in the application of subsection (b) of this section.

"(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have paragraph (1) not apply to all obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

"(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(d) OTHER SPECIAL RULES.—

"(1) BASIS ADJUSTMENTS.—The basis of any short-term obligation in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to section 1281.

"(2) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—Section 1281 shall not require the inclusion of any amount previously includible in gross income.

"(3) COORDINATION WITH OTHER PROVISIONS.—Section 454(b) and section 1271(a)(3) shall not apply to any short-term obligation to which section 1281 applies.

"Subpart D—Miscellaneous Provisions

"SEC. 1286. TAX TREATMENT OF STRIPPED BONDS.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1272(a) as a bond originally issued on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond while held by such person and before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1271(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1271(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3))—

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by section 1273(a)(2).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period.

"SEC. 1287. DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.

"(a) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of sub-

paragraph (A), and subparagraph (B), of such section shall not apply.

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"SEC. 1288. TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.

"(a) GENERAL RULE.—Original issue discount on any tax-exempt obligation shall be treated as accruing—

"(1) for purposes of section 163, in the manner provided by section 1272(a) (determined without regard to paragraph (6) thereof), and

"(2) for purposes of determining the adjusted basis of the holder, in the manner provided by section 1272(a) (determined with regard to paragraph (6) thereof).

"(b) DEFINITIONS.—For purposes of this section—

"(1) ORIGINAL ISSUE DISCOUNT.—The term 'original issue discount' has the meaning given to such term by section 1273(a) without regard to paragraph (3) thereof. In applying section 1273(b)(1) for purposes of the preceding sentence, an issue shall be treated as registered with the Securities and Exchange Commission if it is a publicly offered tax-exempt obligation.

"(2) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' has the meaning given to such term by section 1275(a)(3).".

(b) AMENDMENT OF SECTION 483.—Section 483 (relating to interest on certain deferred payments) is amended to read as follows:

"SEC. 483. INTEREST ON CERTAIN DEFERRED PAYMENTS.

"(a) AMOUNT CONSTITUTING INTEREST.—For purposes of this title, in the case of any payment—

"(1) under any contract for the sale or exchange of any property, and

"(2) to which this section applies,

there shall be treated as interest that portion of the total unstated interest under such contract which, as determined in a manner consistent with the method of computing interest under section 1272(a), is properly allocable to such payment.

"(b) TOTAL UNSTATED INTEREST.—For purposes of this section, the term 'total unstated interest' means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

"(1) the sum of the payments to which this section applies which are due under the contract, over

"(2) the sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of the preceding sentence, the present value of a payment shall be determined under the rules of section 1274(b)(2) using a discount rate equal to 120 percent of the applicable Federal rate determined under section 1274(d).

"(c) PAYMENTS TO WHICH SUBSECTION (a) APPLIES.—

"(1) IN GENERAL.—Except as provided in subsection (f), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

"(A) under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and

"(B) under which, using a discount rate equal to 110 percent of the applicable Federal rate determined under section 1274(d), there is total unstated interest.

"(2) TREATMENT OF OTHER DEBT INSTRUMENTS.—For purposes of this section, a debt instrument of the purchaser which is given in consideration for the sale or exchange of property shall not be treated as a payment, and any payment due under such debt instrument shall be treated as due under the contract for the sale or exchange.

"(3) DEBT INSTRUMENT DEFINED.—For purposes of this subsection, the term 'debt instrument' has the meaning given such term by section 1275(a)(1).

"(d) PAYMENTS INDEFINITE AS TO TIME, LIABILITY, OR AMOUNT.—In the case of a contract for the sale or exchange of property under which the liability for, or the amount or due date of, any portion of a payment cannot be determined at the time of the sale or exchange, this section shall be separately applied to such portion as if it (and any amount of interest attributable to such portion) were the only payments due under the contract; and such determinations of liability, amount, and due date shall be made at the time payment of such portion is made.

"(e) CHANGE IN TERMS OF CONTRACT.—If the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property is changed, the 'total unstated interest' under the contract shall be recomputed and allocated (with adjustment for prior interest (including unstated interest) payments) under regulations prescribed by the Secretary.

"(f) EXCEPTIONS AND LIMITATIONS.—

"(1) COORDINATION WITH ORIGINAL ISSUE DISCOUNT RULES.—This section shall not apply to any debt instrument to which section 1272 applies.

"(2) SALES PRICES OF $3,000 OR LESS.—This section shall not apply to any payment on account of the sale or exchange of property if it can be detemined at the time of such sale or exchange that the sales price cannot exceed $3,000.

"(3) CARRYING CHARGES.—In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 163(b) as if they included interest.

"(4) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), this section shall not apply to any amount contingent on the productivity, use, or disposition of the property transferred.

"(5) ANNUITIES.—This section shall not apply to any amount the liability for which depends in whole or in part on the life expectancy of 1 or more individuals and which constitutes an amount received as an annuity to which section 72 applies.

"(g) MAXIMUM RATE OF INTEREST ON CERTAIN TRANSFERS OF LAND BETWEEN RELATED PARTIES.—

"(1) IN GENERAL.—In the case of any qualified sale, the discount rate used in determining the total unstated interest rate under subsection (b) shall not exceed 7 percent, compounded semiannually.

"(2) QUALIFIED SALE.—For purposes of this subsection, the term 'qualified sale' means any sale or exchange of land by an individual to a member of such individual's family (within the meaning of section 267(c)(4)).

"(3) $500,000 LIMITATION.—Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sales price for such sale (when added to the aggregate sales price for prior qualified sales between such individuals during the calendar year) exceeds $500,000.

"(4) NONRESIDENT ALIEN INDIVIDUALS.—Paragraph (1) shall not apply to any sale or exchange if any party to such sale or exchange is a nonresident alien individual.".

(c) PENALTY FOR FAILURE TO MEET INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. ORIGINAL ISSUE DISCOUNT INFORMATION REQUIREMENTS.

"(a) FAILURE TO SHOW INFORMATION ON DEBT INSTRUMENT.—In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of $50 for each instrument with respect to which such a failure exists.

"(b) FAILURE TO FURNISH INFORMATION TO SECRETARY.—Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect.

"(c) 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 this section.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Original issue discount information requirements.".

SEC. 26. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO ORIGINAL ISSUE DISCOUNT CHANGES.

(a) IN GENERAL.—

(1) Sections 1232, 1232A, and 1232B are hereby repealed.

(2) Clause (i) of section 103A(i)(2)(C) (defining yield on the issue) is amended by striking out "section 1232(b)(2)" and inserting in lieu thereof "sections 1273(b) and 1274".

(3) Subsection (e) of section 163 (relating to original issue discount) is amended to read as follows:

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any debt instrument issued after July 1, 1982, the portion of the original issue discount with respect to such debt instrument which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) DEBT INSTRUMENT.—The term 'debt instrument' has the meaning given such term by section 1275(a)(1).

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1272(a) (without regard to paragraph (6) thereof and without regard to section 1273(a)(3)).

"(3) CROSS REFERENCE.—

"For provision relating to deduction of original issue discount on tax-exempt obligation, see section 1288.".

(4) Paragraph (3) of section 165(j) (relating to denial of deductions for losses on certain obligations not in registered form) is amended by striking out "subsection (d) of section 1232" and inserting in lieu thereof "section 1287".

(5) Paragraph (1) of section 249(b) (relating to limitation on deduction of bond premium on repurchase) is amended by striking out "section 1232(b)" and inserting in lieu thereof "sections 1273(b) and 1274".

(6) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended by striking out "section 1232(a)(3)(A)" and inserting in lieu thereof "section 1271(a)(3)(A)".

(7) Paragraph (1) of section 405(d) (relating to taxability of beneficiary of qualified bond purchase plan) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)".

(8) Paragraph (1) of section 409(b) (relating to income tax treatment of bonds) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)".

(9) Paragraph (3) of section 811(b) (relating to amortization of premium and accrual of discount), as amended by this Act, is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273".

(10) Subsection (b) of section 1037 (relating to application of section 1232) is amended—

(A) by striking out "section 1232(a)(2)(B)" in paragraph (1) and inserting in lieu thereof "section 1271(c)(2)",

(B) by striking out "section 1232" in paragraphs (1) and (2) and inserting in lieu thereof "subpart A of part V of subchapter P", and

(C) by striking out "SECTION 1232" in the subsection heading and inserting in lieu thereof "ORIGINAL ISSUE DISCOUNT RULES".

(11) Subsection (h) of section 1351 (relating to special rule for evidences of indebtedness) is amended by striking out "section 1232(a)(2)" and inserting in lieu thereof "section 1273(a)".

(12) Paragraph (6) of section 6049(d) (relating to treatment of original issue discount) is amended—

(A) by striking out "section 1232A" each place it appears in subparagraph (A) and inserting in lieu thereof "section 1272", and

(B) by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"PART V. Special rules for bonds and other debt instruments.".

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the items relating to sections 1232, 1232A, and 1232B.

SEC. 27. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO TREATMENT OF MARKET DISCOUNT AND ACQUISITION DISCOUNT.

(a) DEFINITION OF SUBSTITUTED BASIS PROPERTY; ETC.—

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(42) SUBSTITUTED BASIS PROPERTY.—The term 'substituted basis property' means property which is—

"(A) transferred basis property, or

"(B) exchanged basis property.

"(43) TRANSFERRED BASIS PROPERTY.—The term 'transferred basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

"(44) EXCHANGED BASIS PROPERTY.—The term 'exchanged basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

"(45) NONRECOGNITION TRANSACTION.—The term 'nonrecognition transaction' means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.".

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 1016 is amended by striking out the last sentence.

(b) ELECTIONS MADE IN MANNER PRESCRIBED BY SECRETARY.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe.".

(c) OTHER TECHNICAL AMENDMENTS.—

(1) Paragraph (12) of section 341(e) (related to nonapplication of section 1254(a)) is amended by striking out "and 1254(a)" and inserting in lieu thereof "1254(a), and 1276(a)".

(2) Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

(3) Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking out "and an oil, gas, or geothermal property (described in section 1254) and inserting in lieu thereof "an oil, gas, or geothermal property (described in section 1254), and a market discount bond (as defined in section 1278)", and

(B) by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

SEC. 28. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to taxable years ending after the date of the enactment of this Act.

(b) TREATMENT OF DEBT INSTRUMENTS RECEIVED IN EXCHANGE FOR PROPERTY.—

(1) IN GENERAL.—

(A) Except as otherwise provided in this subsection, section 1274 of the Internal Revenue Code of 1954 (as added by section 25) and the amendment made by section 25(b) (relating to amendment of section 483) shall apply to sales or exchanges after December 31, 1984.

(B) Section 1274 of such Code and the amendment made by section 25(b) shall not apply to any sale or exchange pursuant to a written contract which was binding on February 28, 1984, and at all times thereafter before the sale or exchange.

(2) REVISION OF SECTION 482 REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall modify the safe harbor interest rates applicable under section 483 of such Code by reason of the amendments made by section 25.

(3) CLARIFICATION OF INTEREST ACCRUAL; FAIR MARKET VALUE.—

(A) IN GENERAL.—In the case of any sale or exchange after February 28, 1984, and before January 1, 1985—

(i) nothing in section 483 of the Internal Revenue Code of 1954 shall permit any interest to be deductible before the period to which such interest is properly allocable, and

(ii) in any case where the Secretary of the Treasury or his delegate establishes by clear and convincing evidence the fair market value of any property, nothing in section 483 of such Code shall be construed as permitting the basis of such property to exceed the fair market value of such property as so established.

(B) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (A) shall not apply to any sale or exchange pursuant to a written contract which was binding on February 28, 1984, and at all times thereafter before the sale or exchange.

(C) INTEREST ACCRUAL RULE NOT TO APPLY WHERE SUBSTANTIALLY EQUAL ANNUAL PAYMENTS.—Clause (i) of subparagraph (A) shall not apply to any debt instrument with substantially equal annual payments.

(c) MARKET DISCOUNT RULES.—

(1) ORDINARY INCOME TREATMENT.—Section 1276 of the Internal Revenue Code of 1954 (as added by section 25) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

(2) INTEREST DEFERRAL RULES.—Section 1277 of such Code (as added by section 25) shall apply to obligations acquired after the date of the enactment of this Act in taxable years ending after such date.

(d) RULES RELATING TO DISCOUNT ON SHORT-TERM OBLIGATIONS.—Subpart C of part V of subchapter P of chapter 1 of such Code (as added by section 25) shall apply to obligations acquired after the date of the enactment of this Act.

(e) ELECTIONS WITH RESPECT TO TREATMENT OF SHORT-TERM OBLIGATIONS.—

(1) ELECTION TO HAVE PROVISIONS APPLY TO ALL OBLIGATIONS HELD DURING THE TAXABLE YEAR.—A taxpayer may elect to have section 1282 of the Internal Revenue Code of 1954 (and, if applicable, section 1281 of such Code) apply to all short-term obligations which were held by the taxpayer at any time during the taxpayer's first taxable year ending after the date of the enactment of this Act.

(2) ELECTION FOR INSTALLMENT PAYMENT OF TAX.—

(A) IN GENERAL.—If the taxpayer makes an election under this paragraph—

(i) the taxpayer may pay part or all the tax for the taxable year referred to in paragraph (1) in 2 or more (but not exceeding 5) equal installments, and

(ii) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(I) the tax for such taxable year determined by taking into account paragraph (1), over

(II) the tax for such taxable year determined by taking into account paragraph (1) but by not taking into account any gain recognized on the disposition of any short-term obligation to the extent that the taxable income would have been increased for the preceding taxable year if section 1282 of such Code (and, if applicable, section 1281 of such Code) had applied to all short-term obligations held during such preceding taxable year.

An election under this paragraph may be made only if the taxpayer makes an election under paragraph (1).

(3) DATE FOR PAYMENT OF INSTALLMENT.—

(A) If an election is made under paragraph (2), the first installment under paragraph (2) shall be paid on or before the due date for filing the return for the taxable year referred to in paragraph (1), and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(4) INTEREST IMPOSED.—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under paragraph (2) shall be determined without regard to paragraph (2).

(5) FORM OF ELECTION.—An election under paragraph (2) shall be made not later than the time for filing the return for the taxable year referred to in paragraph (1) and shall be made in the manner and form required by regulations prescribed by the Secretary. The election shall set forth—

(A) the amount determined under paragraph (2)(B) and the number of installments elected by the taxpayer, and

(B) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(f) TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.—Section 1288 of such Code (as added by section 25) shall apply to obligations issued after September 3, 1982, and acquired after March 1, 1984.

(g) REPEAL OF CAPITAL ASSET REQUIREMENT.—Section 1272 of such Code (as added by section 25) shall not apply to any obligation issued before December 31, 1984, which is not a capital asset in the hands of the taxpayer.

(h) REPORTING REQUIREMENTS.—Section 1275(c) of such Code (as added by section 25) and the amendments made by section 25(c) shall take effect on the day 30 days after the date of the enactment of this Act.

(i) CLARIFICATION THAT PRIOR TRANSITIONAL RULES NOT AFFECTED.—Nothing in the amendment made by section 25(a) shall affect the application of any transitional rule for any provision which was a predecessor to any provision contained in part V of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (as added by section 25).

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

SEC. 31. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

(a) GENERAL RULE.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by inserting after section 246 the following new section:

"SEC. 246A. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

"(a) GENERAL RULE.—In the case of any dividend on debt-financed portfolio stock, there shall be substituted for the percentage which (but for this subsection) would be used in determining the amount of the deduction allowable under section 243, 244, or 245 a percentage equal to the product of—

"(1) 85 percent, and

"(2) 100 percent minus the average indebtedness percentage.

"(b) SECTION NOT TO APPLY TO DIVIDENDS FOR WHICH 100 PERCENT DIVIDENDS RECEIVED DEDUCTION ALLOWABLE.—Subsection (a) shall not apply to—

"(1) qualifying dividends (as defined in section 243(b) without regard to section 243(c)(4)), and

"(2) dividends received by a small business investment company operating under the Small Business Investment Act of 1958.

"(c) DEBT FINANCED PORTFOLIO STOCK.—For purposes of this section, the term 'debt financed portfolio stock' means any stock of a corporation if—

"(1) as of the beginning of the ex-dividend date, the taxpayer does not own stock of such corporation possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote and does not own at least 50 percent of the total number of shares of all other classes of stock of the corporation, and

"(2) at some time during the base period there is portfolio indebtedness with respect to such stock.

"(d) AVERAGE INDEBTEDNESS PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'average indebtedness percentage' means the percentage obtained by dividing—

"(A) the average amount (determined under regulations prescribed by the Secretary) of the portfolio indebtedness with respect to the stock during the base period, by

"(B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of the stock during the base period.

"(2) SPECIAL RULE WHERE STOCK NOT HELD THROUGHOUT BASE PERIOD.—In the case of any stock which was not held by the taxpayer throughout the base period—

"(A) paragraph (1) shall be applied as if the base period consisted only of that portion of the base period during which the stock was held by the taxpayer, and

"(B) the average indebtedness percentage shall be the amount determined under paragraph (1) (as modified by subparagraph (A)) multiplied by a fraction—

"(i) the numerator of which is the number of days during the base period on which the taxpayer held the stock, and

"(ii) the denominator of which is the number of days during the base period.

"(3) PORTFOLIO INDEBTEDNESS.—

"(A) IN GENERAL.—The term 'portfolio indebtedness' means any indebtedness directly attributable to investment in the stock.

"(B) CERTAIN PROCEEDS OF SHORT SALE TREATED AS INDEBTEDNESS.—For purposes of subparagraph (A), any proceeds attributable to a short sale shall be treated as indebtedness for the period beginning on the day on which the short sale is made and ending on the day the short sale is closed. The preceding sentence shall not apply if no deduction was allowable with respect to payments in lieu of dividends in connection with such short sale by reason of section 263(h).

"(4) BASE PERIOD.—The term 'base period' means, with respect to any dividend, the shorter of—

"(A) the period beginning on the ex-dividend date for the most recent previous dividend on the stock and ending on the day before the ex-dividend date for the dividend involved, or

"(B) the 1-year period ending on the day before the ex-dividend date for the dividend involved.

"(e) REDUCTION IN DIVIDENDS RECEIVED DEDUCTION NOT TO EXCEED ALLOCABLE INTEREST.—Under regulations prescribed by the Secretary, any reduction under this section in the amount allowable as a deduction under section 243, 244, or 245 with respect to any dividend shall not exceed the amount of any interest deduction (including any deductible short sale expense) allocable to such dividend.".

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by inserting after the item relating to section 246 the following new item:

"Sec. 246A. Dividends received deduction reduced where portfolio stock is debt financed.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act in taxable years ending after such date.

SEC. 32. TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.

(a) INCREASE IN REQUIRED AMOUNT OF DIVIDENDS.—Subparagraph (B) of section 854(b)(1) (relating to other dividends) is amended by striking out "75 percent" and inserting in lieu thereof "95 percent".

(b) CERTAIN DIVIDENDS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF COMPUTING DEDUCTION UNDER SECTION 243.—Subsection (b) of section 854 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR COMPUTING DEDUCTION UNDER SECTION 243.—For purposes of computing the deduction under section 243, an amount shall be treated as a dividend for purposes of paragraph (1) only if a deduction would have been allowable under section 243 to the regulated investment company (determined after the application of section 246 and as if section 243 applied to dividends received by a regulated investment company).".

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

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

SEC. 35. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Part IV of subchapter O of chapter 1 (relating to special rules for

gain or loss on disposition of property) is amended by redesignating section 1059 as section 1060 and by inserting after section 1058 the following new section:

"SEC. 1059. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

"(a) GENERAL RULE.—If any corporation—

"(1) receives an extraordinary dividend with respect to any share of stock, and

"(2) sells or otherwise disposes of such stock before such stock has been held for more than 1 year,

the basis of such corporation in such stock shall be reduced by the nontaxed portion of such dividend.

"(b) NONTAXED PORTION.—For purposes of this section—

"(1) IN GENERAL.—The nontaxed portion of any dividend is the excess (if any) of—

"(A) the amount of such dividend, over

"(B) the taxable portion of such dividend.

"(2) TAXABLE PORTION.—The taxable portion of any dividend is—

"(A) the portion of such dividend includible in gross income, reduced by

"(B) the amount of any deduction allowable with respect to such dividend under section 243, 244, or 245.

"(c) EXTRAORDINARY DIVIDEND DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'extraordinary dividend' means any dividend with respect to a share of stock if the amount of such dividend equals or exceeds the threshold percentage of the taxpayer's adjusted basis in such share of stock (determined without regard to this section).

"(2) THRESHOLD PERCENTAGE.—The term 'threshold percentage' means—

"(A) 5 percent in the case of stock which is preferred as to dividends, and

"(B) 10 percent in the case of any other stock.

"(3) AGGREGATION OF DIVIDENDS.—

"(A) AGGREGATION WITHIN 85-DAY PERIOD.—All dividends—

"(i) which are received by the taxpayer (or person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates within the same period of 85 consecutive days,

shall be treated as 1 dividend.

"(B) AGGREGATION WITHIN 1 YEAR WHERE DIVIDENDS EXCEED 20 PERCENT OF ADJUSTED BASIS.—All dividends—

"(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates during the same period of 365 consecutive days,

shall be treated as extraordinary dividends if the aggregate of such dividends exceeds 20 percent of the taxpayer's adjusted basis in such stock (determined without regard to this section).

"(C) SUBSTITUTED BASIS TRANSACTIONS.—In the case of any stock, a person is described in this subparagraph if—

"(i) the basis of such stock in the hands of such person is determined in whole or in part by reference to the basis of such stock in the hands of the taxpayer, or

"(ii) the basis of such stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of such stock in the hands of such person.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a) by reason of any distribution which is an extraordinary dividend shall occur at the beginning of the ex-dividend date for such distribution.

"(2) DISTRIBUTIONS IN KIND.—To the extent any dividend consists of property other than cash, the amount of such dividend shall be treated as the fair market value of such property as of the date of the distribution.

"(3) DETERMINATION OF HOLDING PERIOD.—For purposes of determining the holding period of stock under subsection (a)(2), rules similar to the rules of section 246(c) shall apply; except that '1 year' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(4) EX-DIVIDEND DATE.—The term 'ex-dividend' means the date on which the share of stock becomes ex-dividend.

"(5) EXTENSION TO CERTAIN PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash) to which section 301 applies—

"(A) such distribution shall be treated as a dividend without regard to whether the corporation has earnings and profits, and

"(B) the amount so treated shall be reduced by the amount of any reduction in basis under section 301(c)(2) by reason of such distribution.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section including regulations providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions.".

(b) RULES FOR COMPUTING HOLDING PERIODS.—

(1) Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by adding at the end thereof the following new paragraph:

"(4) HOLDING PERIOD REDUCED FOR PERIODS WHERE RISK OF LOSS SUBSTANTIALLY DIMINISHED.—

"(A) IN GENERAL.—The holding periods determined under paragraph (3) shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such periods) in which—

"(i) the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities,

"(ii) the taxpayer is the grantor of an option to buy substantially identical stock or securities, or

"(iii) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar property.

"(B) EXCEPTIONS.—

"(i) QUALIFIED COVERED CALLS.—Subparagraph (A) shall not apply in the case of any qualified covered call (as defined in section 1092(d)(7) but without regard to the requirement that gain or loss with respect to the option not be ordinary income or loss).

"(ii) EXCEPTION FOR CERTAIN ORDINARY INCOME PROPERTY.—Clause (iii) of subparagraph (A) shall not apply in the case of any stock which is held by a dealer primarily for sale to customers in the ordinary course of his trade or business or which is part of a hedging transaction.".

(2) Subparagraph (B) of paragraph (1) of subsection (c) of section 246 is amended by striking out the words "substantially identical stock or securities" and inserting in lieu thereof "positions in substantially similar property".

(3) Paragraph (3) of section 246(c) is amended by striking out the last sentence.

(c) HOLDING PERIOD OF CORPORATE DISTRIBUTEE OF APPRECIATED PROPERTY.—

(1) IN GENERAL.—Section 301 (relating to distributions of property) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR HOLDING PERIOD OF APPRECIATED PROPERTY DISTRIBUTED TO CORPORATION.—For purposes of this subtitle, if—

"(1) property is distributed to a corporation, and

"(2) the basis of such property in the hands of such corporation is determined under subsection (d)(2)(B),

then such corporation shall not be treated as holding the distributed property during any period before the date on which such corporation's holding period in the stock began.".

(2) CROSS REFERENCE.—Paragraph (13) of section 1223 (relating to holding period of property) is amended to read as follows:

"(13) CROSS REFERENCES.—

"(A) For special holding period provision relating to certain partnership distributions, see section 735(b).

"(B) For special holding period provision relating to distributions of appreciated property to corporations, see section 301(e).".

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1059 and inserting in lieu thereof the following new items:

"Sec. 1059. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.

"Sec. 1060. Cross references.".

(2) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "and without regard" and inserting in lieu thereof "without regard to any adjustment under section 1059, and without regard".

(3) Section 1016(a) (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions after the date of the enactment of this Act in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

SEC. 36. DISTRIBUTION OF APPRECIATED PROPERTY BY CORPORATIONS.

(a) GAIN RECOGNIZED ON DISTRIBUTIONS OF APPRECIATED PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 311(d) (relating to appreciated property used to redeem stock) is amended to read as follows:

"(1) IN GENERAL.—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. This subsection shall be applied after the application of subsections (b) and (c).".

(2) EXCEPTIONS.—

(A) Paragraph (2) of section 311(d) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) a distribution to an 80-percent corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

"(B) a distribution which is made with respect to qualified stock if—

"(i) section 302(b)(4) applies to such distribution, or

"(ii) such distribution is a qualified dividend;".

(B) Subsection (e) of section 311 is amended by adding at the end thereof the following new paragraphs:

"(3) 80-PERCENT CORPORATE SHAREHOLDER.—The term '80-percent corporate shareholder' means, with respect to any distribution, any corporation which owns—

"(A) stock in the corporation making the distribution possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends).

"(4) QUALIFIED DIVIDEND.—The term 'qualified dividend' means any distribution of property to a shareholder other than a corporation if—

"(A) such distribution is a dividend,

"(B) such property was used by the distributing corporation in the active conduct of a qualified business (as defined in paragraph (2)(B)), and

"(C) such property is not property described in paragraph (1) or (4) of section 1221.".

(3) CLERICAL AMENDMENT.—The subsection heading of subsection (d) of section 311 is amended to read as follows:

"(d) DISTRIBUTIONS OF APPRECIATED PROPERTY.—".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to distributions declared after March 15, 1984, in taxable years ending after such date.

(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to distributions before February 1, 1986, if—

(i) the distribution consists of property held on March 7, 1984 (or property acquired thereafter in the ordinary course of a trade or business) by—

(I) the controlled corporation, or

(II) any subsidiary controlled corporation,

(ii) a group of 1 or more shareholders (acting in concert)—

(I) acquired, during the 1-year period ending on February 1, 1984 at least 10 percent of the outstanding stock of the controlled corporation,

(II) held at least 10 percent of the outstanding stock of the common parent on February 1, 1984, and

(III) submitted a proposal for distributions of interests in a royalty trust from the common parent or the controlled corporation, and

(iii) the common parent acquired control of the controlled corporation during the 1-year period ending on February 1, 1984.

(B) DEFINITIONS.—For purposes of this paragraph—

(i) The term "common parent" has the meaning given such term by section 1504(a) of the Internal Revenue Code of 1954.

(ii) The term "controlled corporation" means a corporation with respect to which 50 percent or more of the outstanding stock of its common parent is tendered for pursuant to a tender offer outstanding on March 7, 1984.

(iii) The term "subsidiary controlled corporation" means any corporation with respect to which the controlled corporation has control (within the meaning of section 368(c) of such Code) on March 7, 1984.

(3) EXCEPTION FOR CERTAIN DISTRIBUTION OF PARTNERSHIP INTERESTS.—The amendments made by this section shall not apply to any distribution before February 1, 1986, of an interest in a partnership the interests of which were being traded on a national securities exchange on March 7, 1984, if—

(A) such interest was owned by the distributing corporation (or any member of an affiliated group within the meaning of section 1504(a) of such Code of which the distributing corporation was a member) on March 7, 1984,

(B) the distributing corporation (or any such affiliated member) owned more than 80 percent of the interests in such partnership on March 7, 1984, and

(C) more than 10 percent of the interests in such partnership was offered for sale to the public during the 1-year period ending on March 7, 1984.

SEC. 37. EXTENSION OF HOLDING PERIOD FOR LOSSES ATTRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES OR REAL ESTATE INVESTMENT TRUSTS.

(a) REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subparagraph (A) of section 852(b)(4) (relating to loss attributable to capital gain dividend) is amended to read as follows:

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as a long-term capital gain, and

"(ii) such share is held by the taxpayer for 6 months or less,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.".

(2) DETERMINATION OF HOLDING PERIODS.—Subparagraph (C) of section 852(b)(4) is amended to read as follows:

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock; except that for the number of days specified in subparagraph (B) of section 246(c)(3) there shall be substituted—

"(i) '6 months' for purposes of subparagraph (A), and

"(ii) '30 days' for purposes of subparagraph (B).".

(3) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(D) LOSSES INCURRED UNDER A PERIODIC LIQUIDATION PLAN.—To the extent provided in regulations, subparagraph (A) shall not apply to losses incurred on the sale or exchange of shares of stock in a regulated investment company pursuant to a plan which provides for the periodic liquidation of such shares.".

(b) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (7) of section 857(b) (relating to loss on sale or exchange of stock in real estate investment trust) is amended to read as follows:

"(7) LOSS ON SALE OR EXCHANGE OF STOCK HELD 6 MONTHS OR LESS.

"(A) IN GENERAL.—If—

"(i) subparagraph (B) of paragraph (3) provides that any amount with respect to any share or beneficial interest is to be treated as a long-term capital gain, and

"(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) DETERMINATION OF HOLDING PERIOD.—For purposes of this paragraph, the rules of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock or beneficial interest; except that '6 months' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(C) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—To the extent provided in regulations, subparagraph (A) shall not apply to any loss incurred on the sale or exchange of shares of stock of, or beneficial interest in, a real estate investment trust pursuant to a plan which provides for the periodic liquidation of such shares or interests.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred with respect to shares of stock and beneficial interests with respect to which the taxpayer's holding period begins after the date of the enactment of this Act.

PART III—MISCELLANEOUS PROVISIONS

SEC. 41. DENIAL OF DEDUCTIONS FOR CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.

(a) SHORT SALE PAYMENTS ATTRIBUTABLE TO DIVIDENDS.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(h) PAYMENTS IN LIEU OF DIVIDENDS IN CONNECTION WITH SHORT SALES.—

"(1) IN GENERAL.—If—

"(A) a taxpayer makes any payment (or other distribution) with respect to any stock used by such taxpayer in a short sale and such payment or distribution is in lieu of a dividend payment on such stock, and

"(B) the closing of such short sale occurs on or before the 15th day after the date of such short sale,

then no deduction shall be allowed for such payment or distribution. The basis of the stock used to close the short sale shall be increased by the amount not allowed as a deduction by reason of the preceding sentence.

"(2) LONGER PERIOD IN CASE OF EXTRAORDINARY DIVIDENDS.—If the payment described in paragraph (1)(A) is in respect of an extraordinary dividend, paragraph (1)(B) shall be applied by substituting 'the day 1 year after the date of such short sale' for 'the 15th day after the date of such short sale'.

"(3) EXTRAORDINARY DIVIDEND.—For purposes of this subsection, the term 'extraordinary dividend' has the meaning given to such term by section 1059(c); except that such section shall be applied by treating the amount realized by the taxpayer in the short sale as his adjusted basis in the stock.

"(4) SPECIAL RULE WHERE RISK OF LOSS SUBSTANTIALLY DIMINISHED.—The running of any period of time applicable under paragraph (1)(B) (as modified by paragraph (2)) shall be suspended during any period in which—

"(A) the taxpayer holds, has an option to buy, or is under a contractual obligation to buy, substantially identical stock or securities, or

"(B) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar property.".

(b) INVESTMENT INTEREST TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Subparagraph (D) of section 163(d)(3) (defining investment interest) is amended to read as follows:

"(D) INVESTMENT INTEREST.—

"(i) IN GENERAL.—The term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(ii) CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.—For purposes of clause (i), the term 'interest' includes any amount allowable as a deduction in connection with the personal property used in a short sale.".

(c) INTEREST FOR PURPOSES OF SECTION 265(2) TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Section 265(2) (relating to denial of deduction for interest relating to tax-exempt income) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'interest' includes any amount paid or incurred in connection with the personal property used in a short sale.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to short sales after the date of the enactment of this Act in taxable years ending after such date.

SEC. 42. NONRECOGNITION OF GAIN OR LOSS BY CORPORATION ON OPTIONS WITH RESPECT TO ITS STOCK.

(a) GENERAL RULE.—Subsection (a) of section 1032 (relating to exchange of stock for property) is amended by adding at the end thereof the following new sentence: "No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option to buy or sell its stock (including treasury stock).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options acquired or lapsed after the date of the enactment of this Act in taxable years ending after such date.

SEC. 43. AMENDMENTS TO ACCUMULATED EARNINGS TAX.

(a) CLARIFICATION THAT TAX APPLIES TO CORPORATIONS WHICH ARE NOT CLOSELY HELD.—Section 532 (relating to corporations subject to accumulated earnings tax) is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION DETERMINED WITHOUT REGARD TO NUMBER OF SHAREHOLDERS.—The application of this part to a corporation shall be determined without regard to the number of shareholders of such corporation.".

(b) TREATMENT OF CAPITAL GAINS AND LOSSES.—Subsection (b) of section 535 (defining accumulated taxable income) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

"(5) CAPITAL LOSSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), there shall be allowed as a deduction an amount equal to the net capital loss for the taxable year.

"(B) RECAPTURE OF PREVIOUS DEDUCTIONS FOR CAPITAL GAINS.—The aggregate amount allowable as a deduction under subparagraph (A) for any taxable year shall be reduced by the lesser of—

"(i) the nonrecaptured capital gains deductions, or

"(ii) the amount of the accumulated earnings and profits of the corporation as of the close of the preceding taxable year.

"(C) NONRECAPTURED CAPITAL GAINS DEDUCTIONS.—For purposes of subpargraph (B), the term 'nonrecaptured capital gains deductions' means the excess of—

"(i) the aggregate amount allowable as a deduction under paragraph (6) for preceding taxable years beginning after the date of the enactment of the Tax Reform Act of 1984, over

"(ii) the aggregate of the reductions under subparagraph (B) for preceding taxable years.

"(6) NET CAPITAL GAINS.—

"(A) IN GENERAL.—There shall be allowed as a deduction—

"(i) the net capital gain for the taxable year (determined with the application of paragraph (7)), reduced by

"(ii) the taxes attributable to such net capital gain.

"(B) ATTRIBUTABLE TAXES.—For purposes of subparagraph (A), the taxes attributable to the net capital gain shall be an amount equal to the difference between—

"(i) the taxes imposed by this subtitle (except the tax imposed by this part) for the taxable year, and

"(ii) such taxes computed for such year without including in taxable income the net capital gain for the taxable year (determined without the application of paragraph (7)).

"(7) CAPITAL LOSS CARRYOVERS.—

"(A) UNLIMITED CARRYFORWARD.—The net capital loss for any taxable year shall be treated as a short-term capital loss in the next taxable year.

"(B) SECTION 1212 INAPPLICABLE.—No allowance shall be made for the capital loss carryback or carryforward provided in section 1212.

"(8) SPECIAL RULES FOR MERE HOLDING OR INVESTMENT COMPANIES.—In the case of a mere holding or investment company—

"(A) CAPITAL LOSS DEDUCTION, ETC., NOT ALLOWED.—Paragraphs (5) and (7)(A) shall not apply.

"(B) EARNINGS AND PROFITS.—For purposes of subchapter C, the accumulated earnings and profits at any time shall not be less than they would be if this subsection had applied to the computation of earnings and profits for all taxable years beginning after the date of the enactment of the Tax Reform Act of 1984.".

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

SEC. 44. PHASE-OUT OF GRADUATED RATES FOR LARGE CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to amount of tax imposed on corporations) is amended by adding at the end thereof the following new flush sentence:

"In the case of a corporation with taxable income in excess of $1,000,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $20,000.".

(b) CONFORMING AMENDMENT.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain control corporations) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (1), in applying the last sentence of section 11(b) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under such last sentence shall be divided among such component members in the same manner as amounts under paragraph (1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 45. INCREASE IN REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS FROM 15 PERCENT TO 20 PERCENT.

(a) IN GENERAL.—Section 291 (relating to special rules for corporate preference items) is amended by striking out "15 percent" each place it appears and inserting in lieu thereof "20 percent".

(b) DEFERRED DISC AND FSC INCOME.—Paragraph (4) of section 291(a) (relating to certain deferred DISC income) is amended to read as follows:

"(4) CERTAIN DEFERRED DISC OR FSC INCOME.—If a corporation is a shareholder of a DISC or FSC, in the case of taxable years beginning after December 31, 1982—

"(A) section 995(b)(1)(F)(i) shall be applied with respect to such corporation by substituting '60 percent' for 'one-half', and

"(B) section 923(a) shall be applied with respect to such corporation—

"(i) by substituting '32 percent' for '34 percent' in paragraph (2), and

"(ii) by substituting '16/23' for '17/23' in paragraph (3).".

(c) MINIMUM TAX.—Section 57(b) (relating to application with section 291) is amended by striking out "71.6 percent" each place it appears and inserting in lieu thereof "59 5/6 percent".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) 1250 GAIN.—The amendments made by this section to section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1984, in taxable years ending after such date.

(3) POLLUTION CONTROL FACILITIES.—The amendments made by this section to section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1984, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—The amendments made by this section to section 291(b) of such Code shall apply to expenditures after December 31, 1984, in taxable years ending after such date.

SEC. 46. RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deducti-

ble) is amended by adding at the end thereof the following new section:

"SEC. 280F. PAYMENTS UNDER GOLDEN PARACHUTE AGREEMENTS.

"(a) IN GENERAL.—In the case of a golden parachute agreement, no deduction shall be allowed under this chapter for any amount paid or incurred (or property transferred) pursuant to a golden parachute agreement.

"(b) GOLDEN PARACHUTE AGREEMENT DEFINED—For purposes of this section—

"(1) IN GENERAL.—The term 'golden parachute agreement' means any agreement to make one or more payments (or transfers of property) to an applicable individual if—

"(A) such payments are contingent upon a change or threatened change (of a kind specified in the agreement) in the ownership or control of the corporation or a significant portion of its assets,

"(B) the present value (determined in accordance with section 1274(b)(2)) of the aggregate amount (including property) to be received under such agreement by such applicable individual exceeds 200 percent of the highest compensation includible in gross income by such applicable individual from such corporation for any taxable year during the 5-year taxable period preceding the date the agreement is entered into, and

"(C) any portion of such payments does not constitute a reasonable allowable for salary or other compensation for personal services actually rendered by such applicable individual.

"(2) CERTAIN AGREEMENTS SPECIFIED BY SECTION.—To the extent provided in regulations prescribed by the Secretary, the term 'golden parachute agreement' shall include any agreement which the Securities and Exchange Commission classifies as unreasonable in cases similar to the case described in paragraph (1)(A).

"(3) PRESUMPTION OF UNREASONABILITY.—For purposes of paragraph (1)(C), an agreement described in paragraph (1) (without regard to subparagraph (C)) shall be presumed to be unreasonable compensation for services unless the taxpayer establishes otherwise.

"(4) APPLICABLE INDIVIDUAL.—For purposes of this section, the term 'applicable individual' means any individual who—

"(A) is an employee, independent contractor, or other person specified in regulations prescribed by the Secretary who performs personal services for any corporation, and

"(B) is an officer, shareholder, or highly compensated individual.".

(b) EXCISE TAX ON AMOUNTS RECEIVED.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 46—GOLDEN PARACHUTE AGREEMENTS

"Sec. 4999. Payments under golden parachute agreements.

"SEC. 4999. PAYMENTS UNDER GOLDEN PARACHUTE AGREEMENTS.

"(a) IN GENERAL.—There is hereby imposed on any person who receives any amount (including property) under a golden parachute agreement a tax equal to 20 percent of the amount of such payment.

"(b) GOLDEN PARACHUTE AGREEMENT.—For purposes of this section, the term 'golden parachute agreement' has the meaning given such term by section 280F(b).".

(c) FICA TAXES.—Paragraph (2)(C) of section 3121(v) (relating to treatment of certain nonqualified deferred compensation plans) is amended by adding at the end thereof the following new sentence: "Such term shall not include a golden parachute agreement (within the meaning of section 280F(b)).".

(d) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280F. Payments under golden parachute agreements.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under agreements entered into after March 15, 1984, in taxable years ending after such date.

SEC. 47. PROVISIONS RELATING TO EARNINGS AND PROFITS.

(a) ADJUSTMENTS TO EARNINGS AND PROFITS.—

(1) IN GENERAL.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(n) ADJUSTMENTS TO EARNINGS AND PROFITS TO MORE ACCURATELY REFLECT ECONOMIC GAIN AND LOSS.—For purposes of computing the earnings and profits of a corporation, the following adjustments shall be made:

"(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—

"(A) IN GENERAL.—In the case of any amount paid or incurred for construction period interest and taxes—

"(i) no deduction shall be allowed with respect to such amount, and

"(ii) the basis of the property with respect to which such interest and taxes are allocable shall be increased by such amount.

"(B) CONSTRUCTION PERIOD INTEREST AND TAXES DEFINED.—For purposes of this paragraph, the term 'construction period interest and taxes' means all—

"(i) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry property,

"(ii) property taxes, and

"(iii) similar carrying charges,

to the extent such interest, taxes, or charges are attributable to the construction period for such property and would be allowable as a deduction in determining taxable income under this chapter for the taxable year in which paid or incurred (determined without regard to section 189).

"(C) CONSTRUCTION PERIOD.—The term 'construction period' has the meaning given such term by section 189(e)(2) (determined without regard to any real property limitation).

"(2) INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—

"(A) INTANGIBLE DRILLING COSTS.—The amount allowable as a deduction in determining taxable income for any taxable year under section 263(c) shall be allowable as a deduction ratably over the 60-month period beginning with the month in which the the assets to which such amount relates are placed in service.

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—The amount allowable as a deduction in determining taxable income for any taxable year under section 616(a) or 617 shall be allowable as a deduction ratably over the 120-month period beginning with the month in which the assets to which such amount relates are placed in service.

"(3) CERTAIN AMORTIZED AMOUNTS AND DEFERRED EXPENSES.—In the case of the amount of any expenditure with respect to which a deduction in determining taxable income is allowable under section 173, 177, or 248, such amount shall be chargeable to capital account.

"(4) CERTAIN UNTAXED APPRECIATION OF DISTRIBUTED PROPERTY.—In the case of any distribution of property by a corporation described in section 311(d), earnings and profits shall be increased by the amount of any gain which would be includible in gross income for any taxable year if section 311(d)(2) (other than subparagraph (A) thereof) did not apply.

"(5) LIFO INVENTORY ADJUSTMENTS.—Earnings and profits shall be increased or decreased by the amount of any increase or decrease in the LIFO recapture amount (determined under section 336(b)(3)) after the end of each taxable year, except that any decrease below the LIFO recapture amount after the close of the taxable year preceding the first taxable year to which this paragraph applies, shall be taken into account only to the extent provided in regulations prescribed by the Secretary.

"(6) INSTALLMENT SALES.—In the case of any installment sale, earnings and profits shall be computed as if all payments with respect to such sale are made in the taxable year in which such sale occurs.

"(7) COMPLETED CONTRACT METHOD OF ACCOUNTING.—In the case of a taxpayer who uses the completed contract method of accounting, earnings and profits shall be computed as if such taxpayer used the percentage of completion method of accounting.

"(8) REDEMPTIONS.—If a corporation distributes amounts in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of such corporation accumulated after February 28, 1913, attributable to the stock so redeemed.".

(2) CONFORMING AMENDMENTS.—

(A) Section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out paragraph (3).

(B) Subsection (e) of section 312 is hereby repealed.

(b) ADJUSTMENT TO EFFECT OF DEPRECIATION ON EARNINGS AND PROFITS.—The table contained in section 312(k)(3)(A) (relating to recovery property), as amended by this Act, is amended by striking out "35 years" in the item relating to 15-year real property and 20-year real property and inserting in lieu thereof "40 years".

(c) DISTRIBUTIONS OF OBLIGATIONS HAVING ORIGINAL ISSUE DISCOUNT.—

(1) EFFECT ON EARNINGS AND PROFITS.—

(A) Paragraph (2) of section 312(a) (relating to effect of earnings and profits) is amended to read as follows:

"(2) the principal amount of the obligations of such corporation (or, in the case of obligations having original issue discount, the aggregate issue price of such obligations), and ".

(B) Section 312, as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(o) DEFINITION OF ORIGINAL ISSUE DISCOUNT AND ISSUE PRICE FOR PURPOSES OF SUBSECTION (a)(2).—For purposes of subsection (a)(2), the terms 'original issue discount' and 'issue price' have the same respective meanings as when used in subpart A of part V of subchapter P of this chapter."

(2) TREATMENT UNDER ORIGINAL ISSUE DISCOUNT RULES.—Subsection (a) of section 1275 (relating to other definitions and special rules), as added by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF OBLIGATIONS DISTRIBUTED TO CORPORATIONS.—Any debt obligation of a corporation distributed by such corporation with respect to its stock shall be treated as if it had been issued by such corporation for property.".

(d) EFFECTIVE DATES.—

(1) ADJUSTMENTS TO EARNINGS AND PROFITS.—

(A) IN GENERAL.—Except as provided in this paragraph, the amendments made by subsection (a) shall apply to amounts paid or incurred in, or distributions or redemptions occurring in, taxable years beginning after the date of the enactment of this Act.

(B) SPECIAL RULE FOR DISTRIBUTION OF APPRECIATED PROPERTY.—The provisions of section 312(n)(4) of the Internal Revenue Code of 1954, as added by subsection (a), shall not apply to any distribution to which the amendments made by section 36 of this Act do not apply.

(C) LIFO INVENTORY.—The provisions of section 312(n)(5) of such Code (as so added) shall apply to taxable years beginning after the date of the enactment of this Act.

(D) SPECIAL RULES FOR INSTALLMENT SALES AND CERTAIN CONTRACTS.—The provisions of section 312(n)(6) and (7) of such Code (as so added) shall apply to any sale made or contract entered into after March 15, 1984, unless such sale or contract was made pursuant to a binding contract which was in effect on March 15, 1984, and at all times thereafter.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to property placed in service in taxable years beginning after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply with respect to distributions declared after March 15, 1984, in taxable years ending after such date.

SEC. 48. TWO-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

(a) IN GENERAL.—Subsection (g) of section 806 of the Tax Reform Act of 1976 (26 U.S.C. 382 note) (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) is amended—

(1) by striking out "June 30, 1984" in paragraph (2) and inserting in lieu thereof "December 31, 1985";

(2) by striking out "January 1, 1984" in paragraph (2)(B) and inserting in lieu thereof "January 1, 1986"; and

(3) by striking out "January 1, 1984" in paragraph (3) and inserting in lieu thereof "January 1, 1986".

SEC. 49. TARGET CORPORATION MUST DISTRIBUTE ASSETS AFTER REORGANIZATION DESCRIBED IN SECTION 368(a)(1)(C).

(a) IN GENERAL.—Paragraph (2) of section 368(a) (relating to special rules for paragraph (1)) is amended by adding at the end thereof the following new subparagraph:

"(G) DISTRIBUTION REQUIREMENT FOR PARAGRAPH (1)(C)—

"(i) IN GENERAL.—A transaction shall fail to meet the requirements of paragraph (1)(C) unless the corporation substantially all of the properties of which are acquired distributes, during the 12-month period beginning on the date of acquisition, all of its assets (other than assets retained to meet claims).

"(ii) EXCEPTION.—The Secretary may by regulations waive the application of clause (i) to any transaction subject to any conditions the Secretary may prescribe in such regulations.".

(b) ALLOCATION OF EARNINGS AND PROFITS IN SECTION 368(a)(1)(C).—Subsection (h) of section 312 (relating to allocation in certain corporate separations) is amended to read as follows:

"(h) ALLOCATION IN CERTAIN CORPORATE SEPARATIONS AND REORGANIZATIONS.—

"(1) SECTION 355.—In the case of a distribution or exchange to which section 355 (or so much of section 356 as relates to section 355) applies, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation (or corporations) shall be made under regulations prescribed by the Secretary.

"(2) SECTION 368(a)(c).—IN THE CASE OF A REORGANIZATION DESCRIBED IN SECTION 368(A)(1)(C)—

"(A) with respect to which one corporation has control of the corporation substantially all of the assets of which are acquired, or

"(B) which is described in regulations prescribed by the Secretary

proper allocation with respect to the earnings and profits of the transferor corporation shall, under regulations prescribed by the Secretary, be made between the acquiring corporation and the transferor corporation.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 50. DEFINITION OF CONTROL FOR PURPOSES OF NONDIVISIVE REORGANIZATIONS UNDER SECTION 368(a)(1)(D).

(a) IN GENERAL.—Subsection (c) of section 368 (defining control) is amended to read as follows:

"(c) CONTROL DEFINED.—

"(1) IN GENERAL.—For purposes of part I (other than section 304), part II, this part, and part V, the term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(2) SPECIAL RULE FOR CERTAIN SUBSECTION (a)(1)(D) REORGANIZATIONS.—In the case of a transaction which is described in subparagraph (D) of subsection (a)(1) and with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met—

"(A) paragraph (1) shall be applied by substituting '50 percent' for '80 percent' each place it appears, and

"(B) section 318(a) shall apply in determining stock ownership for purposes of paragraph (1), except that—

"(i) section 318(a)(2)(C) shall be applied by substituting '5 percent' for '50 percent', and

"(ii) section 318(a)(3)(C) shall be applied—

"(I) by substituting '5 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owned in such corporation bears to the value of all stock in such corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 51. COLLAPSIBLE CORPORATIONS.

(a) DEFINITION.—Subparagraph (A) of section 341(b)(1) (relating to collapsible corporations) is amended by striking out "a substantial part" and inserting in lieu thereof "2/3".

(b) LIMITATIONS.—Subsection (d) of section 341 (relating to limitations on application of section) is amended by adding at the end thereof the following sentence: "In determining whether property is described in subsection (b)(1) for purposes of applying paragraph (2), all property described in section 1221(1) shall, to the extent provided in regulations prescribed by the Secretary, be treated as one item of property.".

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 341(d) is amended by striking out "so manufactured, constructed, produced, or purchased" and inserting in lieu thereof "described in subsection (b)(1)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to sales, exchanges, and distributions made after December 31, 1984.

(2) PROPERTY A SUBSTANTIAL PART OF THE INCOME FROM WHICH IS REALIZED PRIOR TO 1985.—If, prior to January 1, 1985, a corporation has realized a substantial part of the taxable income to be derived from any property—

(A) for purposes of applying section 341(b)(1)(A) of the Internal Revenue Code of 1954, such corporation shall be treated as having realized two-thirds of the taxable income to be derived from such property, and

(B) for purposes of applying section 341(d)(2) of such Code, such property shall not be aggregated with any other property by reason of the last sentence of section 341(d).

Subtitle E—Partnership Provisions

SEC. 55. PARTNERSHIP ALLOCATIONS WITH RESPECT TO CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—With respect to property contributed to the partnership by a partner, depreciation, depletion, and gain or loss shall, under regulations prescribed by the Secretary, be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution.".

(b) CONFORMING AMENDMENTS.—The fourth sentence of section 613A(c)(7)(D) and the third sentence of section 743(b) are each amended by striking out "an agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account" and inserting in lieu thereof "property contributed to the partnership by a partner, section 704(c) (relating to contributed property) shall apply in determining such share".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property contributed to the partnership after March 31, 1984, in taxable years ending after such date.

SEC. 56. DETERMINATION OF DISTRIBUTIVE SHARES WHEN PARTNER'S INTEREST CHANGES.

(a) GENERAL RULE.—Section 706 (relating to taxable years of partner and partnership) is amended by adding at the end thereof the following new subsection:

"(d) DETERMINATION OF DISTRIBUTIVE SHARE WHEN PARTNER'S INTEREST CHANGES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if during any taxable year of the partnership there is a change in any partner's interest in the partnership, each partner's distributive share of any item of income, gain, loss, deduction, or credit of the partnership for such taxable year shall be determined by the use of any method prescribed by the Secretary by regulations which takes into account the varying interests of the partners in the partnership during such taxable year.

"(2) CERTAIN CASH BASIS ITEMS PRORATED OVER PERIOD TO WHICH ATTRIBUTABLE.—

"(A) IN GENERAL.—If during any taxable year of the partnership there is a change in any partner's interest in the partnership, then (except to the extent provided in regulations) each partner's distributive share of any allocable cash basis item shall be determined—

"(i) by assigning the appropriate portion of each such item to each day in the period (during the taxable year) to which it is attributable, and

"(ii) by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(B) ALLOCABLE CASH BASIS ITEM.—For purposes of this paragraph, the term 'allocable cash basis item' means any of the following items which are described in paragraph (1) and with respect to which the partnership uses the cash receipts and disbursements method of accounting:

"(i) Interest.

"(ii) Taxes.

"(iii) Payments for services or for the use of property.

"(iv) Any other item of a kind specified in regulations prescribed by the Secretary as being an item with respect to which the application of this paragraph is appropriate to avoid significant misstatements of the income of the partners.

"(C) ITEMS ATTRIBUTABLE TO PERIODS NOT WITHIN TAXABLE YEAR.—To the extent that any allocable cash basis item is attributable to—

"(i) periods before the beginning of the taxable year, such item shall be assigned under subparagraph (A)(i) to the first day of such taxable year, or

"(ii) periods after the close of the taxable year, such item shall be assigned under subparagraph (A)(i) to the last day of the taxable year.

"(3) ITEMS ATTRIBUTABLE TO INTEREST IN OTHER PARTNERSHIP PRORATED OVER ENTIRE TAXABLE YEAR.—If—

"(A) during any taxable year of the partnership there is a change in any partner's interest in the partnership, and

"(B) such partnership is a partner in another partnership,

then (except to the extent otherwise provided in regulations) each partner's distributive share of any item attributable to the other partnership shall be determined by assigning an equal portion of each such item to each day during the taxable year of the partnership (during which such partnership is a partner in the other partnership) and by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(4) TAXABLE YEAR DETERMINED WITHOUT REGARD TO SUBSECTION (C)(2)(A).—For purposes of this subsection, the taxable year of a partnership shall be determined without regard to subsection (c)(2)(A).

"(5) ELECTION TO TREAT CHANGES DURING MONTH AS OCCURRING ON FIRST DAY OF MONTH.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), at the election of a partnership, any change in any partner's interest in such partnership during any taxable year shall be treated as occurring on the first day of the month in such year in which such change occurs.

"(B) EXCEPTION FOR DISPOSITION OF ENTIRE INTEREST.—Subparagraph (A) shall not apply to any change in any partner's interest in a partnership if such change is described in subparagraph (A) of subsection (c)(2) or is related to a change so described.

"(C) ELECTION.—The election under subparagraph (A) shall apply to all changes in each partner's interest in such partnership (not described in subparagraph (B)) occurring during the taxable year for which such election is made.".

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 706(c) is amended—

(1) by striking out the last sentence of subparagraph (A), and

(2) by striking out ", but such partner's distributive share of items described in section 702(a) shall be determined by taking into account his varying interests in the partnership during the taxable year" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of items described in section 706(d)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)), to amounts attributable to periods after March 31, 1984, and

(2) in the case of items described in section 706(d)(3) of such Code (as added by subsection (a)), to amounts paid or accrued by the other partnership after March 31, 1984.

SEC. 57. PAYMENTS TO PARTNERS FOR PROPERTY OR CERTAIN SERVICES.

(a) GENERAL RULE.—Subsection (a) of section 707 (relating to transactions between partner and partnership) is amended to read as follows:

"(a) PARTNER NOT ACTING IN CAPACITY AS PARTNER.—

"(1) IN GENERAL.—If a partner engages in a transaction with a partnership other than in his capacity as a member of such partnership, the transaction shall, except as otherwise provided in this section, be considered as occurring between the partnership and one who is not a partner.

"(2) TREATMENT OF PAYMENTS TO PARTNERS FOR PROPERTY OR SERVICES.—Under regulations prescribed by the Secretary—

"(A) TREATMENT OF CERTAIN SERVICES AND TRANSFERS OF PROPERTY.—If—

"(i) a partner performs services for a partnership or transfers property to a partnership,

"(ii) there is a related direct or indirect allocation and distribution to such partner, and

"(iii) the performance of such services (or such transfer) and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in his capacity as a member of the partnership,

such allocation and distribution shall be treated as a transaction described in paragraph (1).

"(B) TREATMENT OF CERTAIN PROPERTY TRANSFERS.—If—

"(i) there is a direct or indirect transfer of money or other property by a partner to a partnership,

"(ii) there is a related direct or indirect transfer of money or other property by the partnership to such partner (or another partner), and

"(iii) the transfers described in clauses (i) and (ii), when viewed together, are properly characterized as a sale of property,

such transfers shall be treated either as a transaction described in paragraph (1) or as a transaction between 2 or more partners acting other than in their capacity as members of the partnership.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply—

(A) in the case of arrangements described in section 707(a)(2)(A) of the Internal Revenue Code of 1954 (as amended by subsection (a)), to services performed or property transferred after February 29, 1984, and

(B) in the case of transfers described in section 707(a)(2)(B) of such Code (as so amended), to property transferred after March 31, 1984.

(2) EXCEPTION FOR CERTAIN TRANSFERS.—The amendment made by subsection (a) shall not apply to a transfer of property described in section 707(a)(2)(B)(i) that is made before December 31, 1984, if—

(A) such transfer was proposed in a written private offering memorandum circulated before February 28, 1984;

(B) the out-of-pocket costs incurred with respect to such offering exceeded $250,000 as of February 28, 1984;

(C) the encumbrances placed on such property in anticipation of such transfer all constitute obligations for which neither the partnership nor any partner is liable; and

(D) the transferor of such property is the sole general partner of the partnership.

SEC. 58. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS, OR CAPITAL LOSS PROPERTY.

(a) GENERAL RULE.—Subpart A of part II of subchapter K of chapter 1 (relating to contributions to a partnership) is amended by adding at the end thereof the following new section:

"SEC. 724. CHARACTER OF GAIN OR LOSS ON CONTRIBUTED UNREALIZED RECEIVABLES, INVENTORY ITEMS, AND CAPITAL LOSS PROPERTY.

"(a) CONTRIBUTIONS OF UNREALIZED RECEIVABLES.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an unrealized receivable in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property shall be treated as ordinary income or ordinary loss, as the case may be.

"(b) CONTRIBUTIONS OF INVENTORY ITEMS.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an inventory item in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as ordinary income or ordinary loss, as the case may be.

"(c) CONTRIBUTIONS OF CAPITAL LOSS PROPERTY.—In the case of any property which—

"(1) was contributed by a partner to the partnership, and

"(2) was a capital asset in the hands of such partner immediately before such contribution,

any loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as a loss from the sale of a capital asset to the extent that, immediately before such contribution, the adjusted basis of such property in the hands of the partner exceeded the fair market value of such property.

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

"(1) UNREALIZED RECEIVABLE.—The term 'unrealized receivable' has the meaning given such term by section 751(c) (determined by treating any reference to the partnership as referring to the partner).

"(2) INVENTORY ITEM.—The term 'inventory item' has the meaning given such term by section 751(d)(2) (determined by treating any reference to the partnership as referring to the partner and by applying section 1231 without regard to any holding period therein provided).

"(3) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a), (b), or (c) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction (including such property). A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351 for property described in subsection (a), (b), or (c).".

(b) AMENDMENT OF SECTION 735.—Section 735 (relating to character of gain or loss on disposition of distributed property) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—

"(1) WAIVER OF HOLDING PERIODS CONTAINED IN SECTION 1231.—For purposes of this section, section 751(d)(2) (defining inventory item) shall be applied without regard to any holding period in section 1231(b).

"(2) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351 for property described in subsection (a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to property contributed to a partnership after March 31, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to property distributed after March 31, 1984, in taxable years ending after such date.

SEC. 59. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to transfer of interests in a partnership) is amended by adding at the end thereof the following new section:

"SEC. 744. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

"(a) CORPORATE DISTRIBUTIONS.—For purposes of determining the amount of gain recognized by a corporation on any distribution, any distribution of an interest in a partnership shall be treated as a distribution of the corporation's proportionate share of the recognition property of such partnership.

"(b) SALES OR EXCHANGE TO WHICH SECTION 337 APPLIES.—For purposes of determining the amount of gain recognized on a sale or exchange described in section 337, any sale or exchange by a corporation of an interest in a partnership shall be treated as a sale or exchange of the corporation's proportionate share of the recognition property of such partnership.

"(c) RECOGNITION PROPERTY.—For purposes of this section, the term 'recognition property' means any property with respect to which gain would be recognized to the corporation if such property—

"(1) were distributed by the corporation in a distribution described in section 311 or 336, or

"(2) were a result in a sale described in section 337,

whichever is appropriate in determining whether property of a partnership is recognition property, such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner.

"(d) EXTENSION TO TRUSTS.—Under regulations, rules similar to the rules of this section shall also apply in the case of the distribution or sale or exchange by a corporation of an interest in a trust.".

(b) ADJUSTMENT OF TRANSFEREE'S BASIS IN PARTNERSHIP PROPERTY.—Subsections (a) and (b) of section 743 (relating to optional adjustment to basis of partnership property) are each amended by inserting ", by distribution," after "sale or exchange".

(c) TECHNICAL AMENDMENT TO SECTION 751(c).—The last sentence of section 751(c) (defining unrealized receivables) is amended by striking out "at its fair market value".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 744. Transfers of partnership and trust interests by corporations.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

SEC. 60. APPLICATION OF SECTION 751 IN THE CASE OF TIERED PARTNERSHIPS.

(a) GENERAL RULE.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES IN THE CASE OF TIERED PARTNERSHIPS, ETC.—In determining whether property of a partnership is—

"(1) an unrealized receivable, or

"(2) an inventory item,

such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner. Under regulations, rules similar to the rules of the preceding sentence shall also apply in the case of interests in trusts."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date.

SEC. 61. SECTION 1031 NOT APPLICABLE TO PARTNERSHIP INTERESTS; LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE.

(a) IN GENERAL.—Subsection (a) of section 1031 (relating to nonrecognition of gain or loss from exchanges solely in kind) is amended to read as follows:

"(a) NONRECOGNITION OF GAIN OR LOSS FROM EXCHANGES SOLELY IN KIND.—

"(1) IN GENERAL.—No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

"(2) EXCEPTION.—This subsection shall not apply to any exchange of—

"(A) stock in trade or other property held primarily for sale,

"(B) stocks, bonds, or notes,

"(C) other securities or evidences of indebtedness or interest,

"(D) interests in a partnership,

"(E) certificates of trust or beneficial interests, or

"(F) choses in action.

"(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED AND THAT EXCHANGE BE COMPLETED NOT MORE THAN 180 DAYS AFTER TRANSFER OF EXCHANGED PROPERTY.—For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if—

"(A) such property was not identified (as of the date on which the taxpayer transfers the property relinquished in the exchange) as property to be received in the exchange, or

"(B) such property is received after the earlier of—

"(i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

"(ii) the due date (determined with regard to extensions) for the transferor's return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers made after the date of the enactment of this Act, in taxable years ending after such date.

(2) REQUIREMENT THAT PROPERTY BE IDENTIFIED AND EXCHANGE BE COMPLETED WITHIN 180 DAYS.—Paragraph (3) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall apply to transfers after the date of the enactment of this Act.

Subtitle F—Trust Provisions

SEC. 65. TREATMENT OF PROPERTY DISTRIBUTED IN KIND.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subchapters A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF PROPERTY DISTRIBUTED IN KIND.—

"(1) BASIS OF BENEFICIARY.—The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

"(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for

"(B) any gain or loss recognized to the estate or trust on the distribution.

"(2) TREATMENT OF PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash)—

"(A) gain or loss shall be recognized by the estate or trust in the same manner as if such property had been sold to the distributee at its fair market value, and

"(B) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

"(3) ELECTION TO HAVE PARAGRAPH (2) NOT APPLY.—In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

"(A) paragraph (2) shall not apply, and

"(B) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of the basis of such property in the hands of the beneficiary (as determined under paragraph (1)) or the fair market value of such property.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after March 1, 1984, in taxable years ending after such date.

SEC. 66. TREATMENT OF MULTIPLE TRUSTS.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(e) TREATMENT OF MULTIPLE TRUSTS.—For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

"(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and

"(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 1, 1984.

Subtitle G—Accounting Changes

SEC. 71. CERTAIN AMOUNTS NOT TREATED AS INCURRED BEFORE ECONOMIC PERFORMANCE.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN LIABILITIES NOT INCURRED BEFORE ECONOMIC PERFORMANCE.—

"(1) IN GENERAL.—For purposes of this title, in determining whether an amount has been incurred with respect to any item during any taxable year, all of the events which establish liability for such amount shall not be treated as having occurred any earlier than when economic performance with respect to such item occurs.

"(2) TIME WHEN ECONOMIC PERFORMANCE OCCURS.—Except as provided in regulations prescribed by the Secretary, the time when economic performance occurs shall be determined under the following principles:

"(A) SERVICES AND PROPERTY.—If the liability of the taxpayer requires a payment to another person for—

"(i) the providing of services to the taxpayer by another person, economic performance occurs when such person provides such services,

"(ii) the providing of property, economic performance occurs when the person provides such property, or

"(iii) the use of property by the taxpayer, economic performance occurs as the taxpayer uses such property.

"(B) PROVIDING OF SERVICES OR PROPERTY BY THE TAXPAYER.—If the liability of the taxpayer requires the taxpayer to provide property or services, economic performance occurs as the taxpayer provides such property or services.

"(C) WORKERS COMPENSATION, TORT, AND EMPLOYEE BENEFIT LIABILITIES OF THE TAXPAYER.—If the liability of the taxpayer requires a payment to another person and—

"(i) arises under any workers compensation act,

"(ii) arises out of any tort, or

"(iii) arises under any contractual liability of the taxpayer to provide benefits to employees of the taxpayer other than benefits—

"(I) provided through a plan subject to the requirements of section 404 or 404A or a welfare benefit fund described in section 4976(e), or

"(II) which are paid before the date which is 2½ months after the close of the taxable year of the taxpayer.

economic performance occurs as the payments to such person are made. Subparagraphs (A) and (B) shall not apply to any liability described in the preceding sentence.

"(D) OTHER ITEMS.—In the case of any other liability of the taxpayer, economic performance occurs at the time determined under regulations prescribed by the Secretary.

"(3) SUBSECTION NOT TO APPLY TO CERTAIN CASES TO WHICH OTHER PROVISIONS OF THIS TITLE SPECIFICALLY APPLY.—This subsection shall not apply to any item to which any of the following provisions apply:

"(A) Subsection (c) or (f) of section 166 (relating to reserves for bad debts).

"(B) Section 463 (relating to vacation pay).

"(C) Section 466 (relating to discount coupons).

"(D) Any other provisions of this title which specifically provides for a deduction for a reserve for estimated expenses.

"(4) SPECIAL RULES FOR CERTAIN NUCLEAR DECOMMISSIONING AND RECLAMATION AND CLOSING COSTS.—

"(A) IN GENERAL.—This subsection shall not apply to any portion of any liability with respect to which the taxpayer makes an election under subsection (i) or (j).

"(B) LIABILITIES WITH RESPECT TO WHICH ELECTION NOT MADE.—If the taxpayer fails to make an election under subsection (i) or (j)—

"(i) in the case of any liability with respect to the decommissioning of a nuclear powerplant (or unit thereof), economic performance occurs as the decommissioning is performed, and

"(ii) in the case of any liability with respect to any qualified reclamation or closing expenses (within the meaning of subsection (j)), economic performance occurs as the reclamation or closing activities occur.

"(i) SPECIAL RULE FOR LIABILITIES IN CONNECTION WITH THE DECOMMISSIONING OF A NUCLEAR POWERPLANT.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection, there shall be allowed as a deduction for any taxable year the amount of payments made by the taxpayer to a Nuclear Decommissioning Reserve Fund (hereinafter referred to as the 'Fund') during such taxable year.

"(2) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the lesser of—

"(A) the amount of nuclear decommissioning costs which is included in the taxpayer's cost of service for ratemaking purposes for such taxable year, or

"(B) the ruling amount applicable to such taxable year.

"(3) INCOME AND DEDUCTIONS OF THE TAXPAYER.—

"(A) INCLUSION OF AMOUNTS DISTRIBUTED.—There shall be includible in the gross income of the taxpayer for any taxable year—

"(i) any amount distributed from the Fund during such taxable year, other than any amount distributed to pay costs described in paragraph (5)(B)(ii) (unless such distribution is to the taxpayer),

"(ii) the amount of any deemed distribution under paragraph (5)(F) if the Fund is disqualified in such taxable year, and

"(iii) the balance in the Fund as of the time the Fund is terminated under paragraph (5)(G).

"(B) DEDUCTION WHEN ECONOMIC PERFORMANCE OCCURS.—In addition to any deduction under paragraph (1), there shall be allowable as a deduction for any taxable year the amount of the nuclear decommissioning costs with respect to which economic performance (within the meaning of subsection (h)(2)) occurs during such taxable year.

"(4) RULING AMOUNT.—For purposes of this subsection—

"(A) REQUEST REQUIRED.—No deduction shall be allowed for any payment to the Fund unless the taxpayer requests, and receives, from the Secretary, a schedule of ruling amounts.

"(B) RULING AMOUNT.—The term 'ruling amount' means, with respect to any taxable year, the amount which the Secretary determines under subparagraph (A) to be necessary to—

"(i) to fund the future nuclear decommissioning costs of the taxpayer with respect to the nuclear powerplant (or unit thereof), multiplied by a fraction—

"(I) the numerator of which is the number of taxable years between the taxable year in which the Fund is established and the taxable year in which decommissioning is reasonably expected to commence, and

"(II) the denominator of which is the useful life of the nuclear powerplant (or unit thereof), and

"(ii) to prevent any excessive funding of such costs or the funding of such costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

"(C) REVIEW OF AMOUNT.—The Secretary shall at least once during the useful life of the nuclear powerplant or unit thereof (or, more frequently, upon the request of the taxpayer) review, and revise if necessary, the schedule of ruling amounts determined under subparagraph (A).

"(5) NUCLEAR DECOMMISSIONING TRUST FUND.—

"(A) IN GENERAL.—Each taxpayer who elects the application of this subsection shall establish a Nuclear Decommissioning Trust Fund with respect to each nuclear powerplant (or unit thereof) to which such election applies.

"(B) TAXATION OF FUND.—There is imposed on the gross income of the Fund for any taxable year a tax at a rate equal to the maximum rate in effect under section 11(b), except that—

"(i) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under paragraph (1), and

"(ii) there shall be allowed as a deduction any amount paid by the Fund described in subparagraph (D)(ii) (other than to the taxpayer).

"(C) CONTRIBUTIONS TO FUND.—The Fund shall not accept any payments (or other amounts) other than payments with respect to which a deduction is allowable under paragraph (1).

"(D) USE OF FUND.—The Fund shall be used exclusively for—

"(i) satisfying, in whole or in part, any liability of any person contributing to the Fund for the decommissioning of a nuclear powerplant (or unit thereof), and

"(ii) to pay administrative costs (including taxes) and other incidental expenses of the Fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the Fund.

"(E) PROHIBITIONS AGAINST SELF-DEALING.—Under regulations prescribed by the Secretary, for purposes of section 4951 (and so much of this title as relates to such section), the Fund shall be treated in the same manner as a trust described in section 501(c)(21).

"(F) DISQUALIFICATION OF FUND.—In any case in which the Fund violates any provision of this subsection or section 4951, the Secretary may disqualify such Fund from the application of this subsection. In any case to which this subparagraph applies, the Fund shall be treated as having distributed all of its funds on the date such determination takes effect.

"(G) TERMINATION UPON COMPLETION.—Upon completion of the nuclear decommissioning of the nuclear powerplant (or unit thereof) with respect to which a Fund relates, the taxpayer shall terminate such Fund.

"(j) SPECIAL RULES RELATING TO CERTAIN RECLAMATION AND CLOSING COSTS.—

"(1) IN GENERAL.—In the case of any qualified reclamation or closing expenses, there shall be allowed as a deduction for any taxable year an amount equal to the current reclamation and closing costs of the taxpayer with respect to such expenses if the taxpayer—

"(A) elects the application of this subsection, and

"(B) establishes a separate account as of the close of such taxable year—

"(i) for each property or portion thereof to which the costs arising in such taxable year relate (as determined under paragraph (7)), and

"(ii) which meets the requirements of this subsection.

"(2) ADJUSTMENTS TO ACCOUNT.—Any account established with respect to any qualified reclamation or closing expenses shall—

"(A) be increased by the amount of the current reclamation or closing costs,

"(B) be credited with interest (compounded semiannually) at a rate equal to one-half the discount rate in effect under section 483—

"(i) with respect to the Federal short-term rate in the case of current reclamation costs, and

"(ii) with respect to the Federal long-term rate in the case of current closing costs, and

"(C) reduced by the amount paid by the taxpayer for qualified reclamation and closing expenses allocable to such account.

"(3) INCLUSION IN INCOME OF CERTAIN AMOUNTS.—

"(A) IN GENERAL.—There shall be includible in the gross income of any taxpayer for any taxable year the aggregate amount of the reductions under paragraph (2)(C) in any account of the taxpayer during such taxable year.

"(B) SPECIAL RULES FOR RECLAMATION ACCOUNTS.—In the case of any account established with respect to qualified reclamation expenses—

"(i) all amounts in such account shall be withdrawn as of the close of the 3rd taxable year after the taxable year in which such account is established, and

"(ii) such amounts shall be included in the gross income of the taxpayer for such 3rd taxable year.

"(4) ALLOWANCE OF DEDUCTION AS ECONOMIC PERFORMANCE OCCURS.—In addition to any deduction allowable under paragraph (1), a deduction shall be allowable for any qualified reclamation and closing expenses in the taxable year in which economic performance (within the meaning of subsection (h)(2)) occurs.

"(5) CURRENT RECLAMATION AND CLOSING COSTS.—For purposes of this subsection—

"(A) CURRENT RECLAMATION COSTS.—The term 'current reclamation costs' means the qualified reclamation expenses which would be incurred (on the date the account with respect to such expenses is established) if the reclamation activities to which such expenses relate were commenced on such date.

"(B) CURRENT CLOSING COSTS.—The term 'current closing costs' means, with respect to any taxable year, the excess of—

"(i) the qualified closing expenses (determined on a unit-of-production method of accounting) as of the last day of such taxable year as if the activities to which such expenses relate were commenced on such day, over

"(ii) the amount determined under clause (i) as of the beginning of such taxable year.

"(C) 2 PERCENT DISCOUNT.—For purposes of this paragraph, any amount under subparagraphs (A) and (B) shall be discounted under regulations prescribed by the Secretary, using a discount rate equal to 2 percent, compounded annually, for each calendar year (or fraction thereof) between—

"(i) in the case of subparagraph (A), the date the account is established, or

"(ii) in the case of subparagraph (B), the first day of the taxable year, and

"(iii) the date on which the activity to which the qualified reclamation or closing expenses relate is reasonably expected to commence.

"(6) QUALIFIED RECLAMATION EXPENSES.—For purposes of this subsection, the term 'qualified reclamation expenses' means any of the following expenses:

"(A) MINING RECLAMATION.—Any expenses incurred for any land reclamation activity which is conducted in accordance with a reclamation plan (including an amendment or modification thereof) which is submitted pursuant to—

"(i) the provisions of section 511 or 528 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1984) and which is part of a surface mining and reclamation permit granted under the provisions of title V of such Act (as so in effect), or

"(ii) any other Federal or State law which imposes reclamation and permit requirements substantially similar to the requirements imposed by title V of such Act (as so in effect).

"(B) SOLID WASTE DISPOSAL.—

"(i) IN GENERAL.—Any expenses incurred for any land reclamation activity in connection with solid waste disposal sites which is conducted in accordance with—

"(I) any provision of the Solid Waste Disposal Act (as in effect on January 1, 1984) requiring such activity, or

"(II) any other Federal or State law which is substantially similar to such Act.

"(ii) EXCEPTION FOR CERTAIN HAZARDOUS WASTE SITES.—Clause (i) shall not apply to any hazardous waste disposal site to which the Comprehensive Environmental, Compensation, and Liability Act of 1980 applies.

"(6) QUALIFIED CLOSING EXPENSES.—The term 'qualified closing expenses' means any expenses in connection with any activity with respect to the closing of a mine or solid waste disposal site which is conducted in accordance with any Federal or State law requiring such activity.

"(7) ESTABLISHMENT OF SEPARATE ACCOUNTS.—The Secretary shall prescribe regulations for the allocation of specific property (or portions thereof) to the separate accounts required to be established under paragraph (1) with respect to property disturbed during any taxable year.".

(b) LIMITATION ON CERTAIN PREPAID FARMING EXPENSES.—

(1) SECTION 464 MADE APPLICABLE TO PERSONS PREPAYING 50 PERCENT OR MORE OF EXPENSES.—Section 464 (relating to limitations on deductions in case of farming syndicates) is amended by inserting "or any taxable year for which a person is described in subsection (f)" after "subsection (c))" in subsections (a) and (b).

(2) PERSONS TO WHOM LIMITATIONS APPLY.—Section 464 is amended by adding at the end thereof the following new subsection:

"(f) SECTION TO APPLY TO CERTAIN PERSONS PREPAYING 50 PERCENT OR MORE OF FARMING EXPENSES.—

"(1) IN GENERAL.—This subsection applies to any taxpayer who—

"(A) computes taxable income for the taxable year on the cash receipts and disbursements method of accounting, and

"(B) fails to meet the requirements of paragraph (2).

"(2) PREPAID EXPENSES MUST BE LESS THAN 50 PERCENT.—A taxpayer meets the requirements of this paragraph for any taxable year if—

"(A) the taxpayer's deductible farming expenses for the taxable year with respect to which economic performance occurs in any succeeding taxable year are less than 50 percent of—

"(B) the taxpayer's aggregate deductible farming expenses for such taxable year.

"(3) DEFERRAL OF DEDUCTIONS FOR ADDITIONAL ITEMS.—In the case of a taxpayer to whom this subsection applies, no deduction shall be allowable for any deductible farming expense to which subsection (a) does not apply until the taxable year in which economic performance with respect to such expense occurs (or, if later, the taxable year when paid).

"(4) SUBSECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—

"(A) IN GENERAL.—This subsection shall not apply to any eligible taxpayer for any taxable year if—

"(i)(I) the aggregate expenses described in paragraph (2)(A) for the 3 taxable years preceding such taxable year are less than 50 percent of,

"(II) the aggregate expenses described in paragraph (2)(B) for such 3 taxable years, or

"(ii) the taxpayer fails to meet the requirements of paragraph (2) by reason of any change in business operation directly attributable to extraordinary circumstances.

"(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph, the term 'eligible taxpayer' means any taxpayer—

"(i) whose principal residence (within the meaning of section 1034) is on a farm,

"(ii) who has a principal occupation of farming, or

"(iii) who is a member of the family (within the meaning of subsection (c)(2)(E)) of a taxpayer described in clause (i) or (ii).

"(5) DEDUCTIBLE FARMING EXPENSES.—For purposes of this subsection, the term 'deductible farming expenses' means any amount allowable as a deduction under this chapter (including any amount allowable as a deduction for depreciation or amortization) which is properly allocable to the trade or business of farming.

"(6) ECONOMIC PERFORMANCE.—For purposes of this subsection—

"(A) IN GENERAL.—Economic performance shall be treated as occurring at the time determined under section 461(h)(2).

"(B) CERTAIN PROPERTY.—In the case of any property described in section 461(h)(2)(A)(ii), economic performance shall be treated as occurring at the time such property is used or consumed.".

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 467 is amended by striking out "IN CASE OF FARMING SYNDICATES" and inserting in lieu thereof "FOR CERTAIN FARMING EXPENSES".

(B) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of farming syndicates" in the item relating to section 464 and inserting in lieu thereof "for certain farming expenses".

(c) 10-YEAR NET OPERATING LOSS CARRYBACK PERIOD FOR DEFERRED STATUTORY OR TORT LIABILITY DEDUCTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(K) SPECIAL RULE FOR DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—In the case of a taxpayer which has a deferred statutory or tort liability loss (as defined in subsection (k)) for any taxable year beginning after December 31, 1983, the deferred statutory or tort liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss.".

(2) DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DEFINITIONS AND SPECIAL RULES RELATING TO DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—For purposes of this section—

"(1) DEFERRED STATUTORY OR TORT LIABILITY LOSS.—The term 'deferred statutory or tort liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such taxable year, reduced by any portion thereof attributable to—

"(i) a foreign expropriation loss, or

"(ii) a product liability loss, or

"(B) the sum of the amounts allowable as a deduction under this chapter (other than any deduction described in subsection (j)(1)(B)) which—

"(i) is taken into account in computing the net operating loss for such taxable year, and

"(ii) is for an amount incurred with respect to a liability which arises under a Federal or State law or out of any tort of the taxpayer and—

"(I) in the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of such taxable year, or

"(II) in the case of a liability arising out of a tort, such liability arises out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurs at least 3 years before the beginning of such taxable year.

A liability shall not be taken into account under the preceding sentence unless the taxpayer used an accrual method of accounting throughout the period or periods during which the acts or failures to act giving rise to such liability occurred.

"(2) SPECIAL RULE FOR NUCLEAR POWERPLANTS.—Except as provided in regulations prescribed by the Secretary, that portion of a deferred statutory or tort liability loss which is attributable to amounts incurred in the decommissioning of a nuclear powerplant (or any unit thereof) may, for purposes of subsection (b)(1)(K), be carried back to each of the taxable years during the period—

"(A) beginning with the taxable year in which such plant (or unit thereof) was placed in service, and

"(B) ending with the taxable year preceding the loss year.

"(3) COORDINATION WITH SUBSECTION (b)(2).—In applying paragraph (2) of subsection (b), a deferred statutory or tort liability loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(4) NO CARRYBACK TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—No deferred statutory or tort liability loss may be carried back to a taxable year beginning before January 1, 1984, unless such loss may be carried back to such year without regard to subsection (b)(1)(K).".

(3) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 172(b)(1)(A) is amended by striking out "and (J)" and inserting in lieu thereof "(J), and (K)".

(B) Subsections (h) and (j) of section 172 are each amended by striking out "subsection (b)" in the matter preceding paragraph (1) and inserting in lieu thereof "this section".

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 461 (f) (relating to contested liabilities) is amended by inserting "determined after application of subsection (h)" after "taxable year)".

(e) INCLUSION IN INCOME OF NUCLEAR DECOMMISSIONING COSTS INCLUDED IN THE TAXPAYER'S RATE BASE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 88. CERTAIN AMOUNTS WITH RESPECT TO NUCLEAR DECOMMISSIONING COSTS.

"In the case of any taxpayer who is required to include the amount of any nuclear decommissioning costs in the taxpayer's cost of service for ratemaking purposes, there shall be includible in the gross income of such taxpayer the amount so included for any taxable year.".

(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 88. Certain amounts with respect to nuclear decommissioning costs.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection and subsection (g), the amendments made by this section shall apply to amounts—

(A) with respect to which a deduction would be allowable under chapter 1 of the Internal Revenue Code of 1954 (determined without regard to such amendments) after the date of enactment of this Act, or

(B) with respect to which—

(i) a deduction is allowed under chapter 1 of such Code (as so determined) before the date of the enactment of this Act, and

(ii) a deduction would be allowable under chapter 1 of such Code (determined with regard to such amendments) after the date of the enactment of this Act.

In the case of an amount described in subparagraph (B), such amendments shall not be applied to disallow a deduction for any taxable year ending before the date of the enactment of this Act.

(2) PREPAID FARMING EXPENSES.—The amendment made by subsection (b) shall apply to amounts paid after March 31, 1984 in taxable years ending after such date.

(3) SECTION 461(h) TO APPLY IN CERTAIN CASES.—Notwithstanding paragraph (1), section 461(h) of the Internal Revenue Code of 1954 (as added by this section) shall be treated as being in effect to the extent necessary to carry out any amendments made by this section which take effect before section 461(h).

(4) CHANGE IN METHOD OF ACCOUNTING.—For purposes of section 481 of the Internal Revenue Code of 1954, the application of the amendments made by this section shall be treated as a change in method of accounting.

(g) EXCEPTION FOR CERTAIN EXISTING ACTIVITIES AND CONTRACTS.—

(1) EXISTING ACCOUNTING PRACTICE.—If, on March 1, 1984, any taxpayer was regularly computing a deduction for mining reclamation activities under a method substantially similar to the method described in section 461 (j) of the Internal Revenue Code of 1954 (as added by this section), the liability for such reclamation activities for land disturbed before the date of the enactment of this Act shall be treated as having been incurred when such land is disturbed.

(2) FIXED PRICE SUPPLY CONTRACTS.—

(A) IN GENERAL.—In the case of any fixed price supply contract entered into before March 1, 1984, the amendment made by this section shall not be applied in computing any deduction for mining reclamation and closing expenses with respect to land disturbed to acquire minerals covered by such contract, except that this subparagraph shall apply only if the taxpayer deducts only the estimated current costs of such expenses.

(B) NO EXTENSION OR RENEGOTIATION.—Subparagraph (A) shall not apply—

(i) to any extension of any contract beyond the period such contract was in effect on March 1, 1984, or

(ii) to any renegotiation of, or other change in, the terms and conditions of such contract in effect on March 1, 1984.

SEC. 72. AMORTIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES FOR RESIDENTIAL REAL PROPERTY HELD BY CORPORATIONS.

(a) IN GENERAL.—Subsection (d) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(1) by striking out paragraph (2), and

(2) by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984, with respect to construction beginning after March 15, 1984.

SEC. 73. CAPITALIZATION OF START-UP EXPENDITURES.

(a) IN GENERAL.—Section 195 (relating to start-up expenditures) is amended to read as follows:

"SEC. 195. START-UP EXPENDITURES.

"(a) CAPITALIZATION OF EXPENDITURES.—Except as otherwise provided in this section, no deduction shall be allowed for start-up expenditures.

"(b) ELECTION TO AMORTIZE.

"(1) IN GENERAL.—Start-up expenditures may, at the election of the taxpayer, be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction prorated equally over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the active trade or business begins).

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a trade or business is completely disposed of by the taxpayer before the end of the period to which paragraph (1) applies, any deferred expenses which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.

"(c) DEFINITIONS.—For purposes of this section—

"(1) START-UP EXPENDITURES.—The term 'start-up expenditure' means any amount—

"(A) paid or incurred in connection with—

"(i) investigating the creation or acquisition of an active trade or business, or

"(ii) creating an active trade or business, or

"(iii) any activity engaged in for profit and for the production of income before the day on which the active trade or business begins in anticipation of such activity becoming an active trade or business, and

"(B) which, if paid or incurred in connection with the operation of an existing active trade or business (in the same field as the trade or business referred to in subparagraph (A)), would be allowable as a deduction for the taxable year in which paid or incurred.

"(2) BEGINNING OF TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of when an active trade or business begins shall be made in accordance with such regulations as the Secretary may prescribe.

"(B) ACQUIRED TRADE OR BUSINESS.—An acquired active trade or business shall be treated as beginning when the taxpayer acquires it.

"(d) ELECTION.—

"(1) TIME FOR MAKING ELECTION.—An election under subsection (b) shall be made not later than the time prescribed by law for filing the return for the taxable year in which the trade or business begins (including extensions thereof).

"(2) SCOPE OF ELECTION.—The period selected under subsection (b) shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.

"(3) MANNER OF MAKING ELECTION.—An election under subsection (b) shall be made in such manner as the Secretary shall by regulations prescribe.".

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 195 and inserting in lieu thereof the following:

"Sec. 195. Start-up expenditures.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1984.

SEC. 74. TREATMENT OF CERTAIN DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 467. CERTAIN PAYMENTS FOR USE OF PROPERTY OR SERVICES.

"(a) ACCRUAL METHOD AND INTEREST FOR USE OF PROPERTY.—In the case of the payor or payee of any deferred rental payment agreement, there shall be taken into account for purposes of this title for any taxable year—

"(1) that portion of the constant rental amount with respect to such agreement which is allocable to such taxable year, and

"(2) that portion of the annual interest amount with respect to such agreement which is allocable to such taxable year.

"(b) SERVICES.—In the case of the payor or payee under any deferred services payment agreement, there shall be taken into account for purposes of this title for any taxable year that portion of the annual interest amount allocable to such taxable year.

"(c) CONSTANT RENTAL AMOUNT AND ANNUAL INTEREST AMOUNT DEFINED.—For purposes of this section—

"(1) CONSTANT RENTAL AMOUNT.—The term 'constant rental amount' means, with respect to any deferred payment rental agreement, the amount which, if paid as of the close of each lease period (or portion thereof) under the agreement, has a present value equal to the present value of the aggregate payments required under the agreement.

"(2) ANNUAL INTEREST AMOUNT.—The term 'annual interest amount' means, with respect to any lease period, interest, computed at the rate determined under subsection (g)(3), on the sum of—

"(A) the excess of—

"(i) the constant rental amount, over

"(ii) any payments under the agreement for such lease period, and

"(B) any unpaid annual interest amount as of the close of the lease period for any preceding lease period.

"(3) SPECIAL RULE FOR SERVICES.—The annual interest amount with respect to any deferred service payment agreement shall be computed in the same manner as the annual interest amount under paragraph (2), except that the Secretary may by regulations provide for adjustments to such amount in any case where services are not performed ratably over the period of the agreement.

"(4) LEASE PERIOD.—The term 'lease period' means, with respect to any deferred rental payment agreement, the 12-month period beginning on the first day to which such agreement applies and each succeeding 12-month period or portion thereof.

"(d) DEFERRED RENTAL PAYMENT AGREEMENT DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred rental payment agreement' means any agreement for the use of tangible property under which—

"(A) there is at least 1 amount allocable to the use of property during a calendar year which is to be paid after the close of the calendar year following the calendar year in which such use occurs, or

"(B) there is at least one amount allocable to use of property for any lease period which is not commercially reasonable.

"(2) COMMERCIALLY REASONABLE.—

"(A) IN GENERAL.—The determination of whether any amount described in paragraph (1)(B) is not commercially reasonable—

"(i) shall be made as of the time the rental agreement is entered into, and

"(ii) shall be made by taking into account the type of property and the area in which the property is located.

"(B) SPECIAL RULES FOR SALE-LEASEBACKS, ETC.—In the case of any agreement which is part of a transaction described in subparagraph (C), an amount payable under such agreement for the use of property for any lease period shall be treated as not commercially reasonable if the increase over the amount payable for the immediately preceding lease period is more than the greatest of—

"(i) the percentage increase during such period in the Consumer Price Index (or in any other index specified in regulations),

"(ii) the Federal short-term rate determined under section 1274(d) which is in effect as of the time the agreement is entered into, or

"(iii) the increase during such period in specified costs for the property payable by the lessor to unrelated persons.

"(C) DESCRIPTION OF SALE-LEASEBACK, ETC. TRANSACTIONS.—For purposes of subparagraph (B), a transaction is described in this subparagraph if it involves—

"(i) a sale or lease of property by any person, followed by

"(ii) a leaseback within 2 years to such person (or a related person).

"(D) SPECIAL SALE-LEASEBACK, ETC., RULES NOT TO APPLY IN CERTAIN CASES.—Subparagraph (B) shall not apply in the case of any agreement if, pursuant to a request filed not later than the date on which such agreement was entered into, it is established to the satisfaction of the Secretary that such agreement did not have as 1 of its principal purposes the avoidance of any Federal tax.

"(e) DEFERRED SERVICE PAYMENT AGREEMENT DEFINED.—For purposes of this section, the term 'deferred service payment agreement' means an agreement to provide services under which there is at least 1 amount allocable to services performed in a calendar year which is to be paid after the close of the calendar year following the calendar year in which the services are performed.

"(f) EXCEPTIONS.—

"(1) SECTION NOT TO APPLY TO DEFERRED PAYMENTS OF $250,000 OR LESS.—This section shall not apply to any amount to be paid for the use of property (or services) if the sum

of the following amounts does not exceed $250,000—

"(A) the aggregate amount of payments received as consideration for such use of property (or such services), and

"(B) the aggregate value of any other consideration to be received for such use of property (or such services).

For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 1274(c)(2)(C) shall apply.

"(2) COORDINATION WITH SECTION 1273(b)(3).—THIS SECTION SHALL NOT APPLY TO ANY TRANSACTION IN WHICH ANY DEBT INSTRUMENT TO WHICH SECTION 1273(B)(3) APPLIES IS ISSUED.

"(3) PAYMENTS TO WHICH OTHER SECTIONS APPLY.—Sections 83, 267, 404, 404A, and 706(a) shall be applied before the application of this section, and this section shall not apply to any payment to which any such section applies.

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PAYEE.—The term 'payee' means the person to whom the deferred payment is to be made.

"(2) PAYOR.—The term 'payor' means the person required to make the deferred payment.

"(3) DISCOUNT AND INTEREST RATE.—For purposes of computing present value and interest under subsection (c), the rate used shall be equal to 120 percent of the applicable Federal rate determined under section 1274(d) which is in effect at the time the agreement is entered into with respect to debt instruments having a maturity equal to the term of the agreement.

"(4) RELATED PERSON.—The term 'related person' has the meaning given to such term by section 168(d)(4)(D).

"(5) CERTAIN OPTIONS TO RENEW TAKEN INTO ACCOUNT.—Except as provided in regulations prescribed by the Secretary, there shall not be taken into account in computing the term of any agreement for purposes of this section any extension which is solely at the option of the lessee.

"(h) COMPARABLE RULES WHERE AGREEMENT FOR DECREASING PAYMENTS.—Under regulations prescribed by the Secretary, rules comparable to the rules of this section shall also apply in the case of any agreement where the amount paid under the agreement for the use of property or performance of services decreases during the term of the agreement.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 467. Certain payments for use of property or services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after March 15, 1984, in taxable years ending after such date.

Subtitle H—Provisions Relating to Tax Straddles

SEC. 75. REPEAL OF EXCEPTION FROM STRADDLE RULES FOR STOCK OPTIONS AND CERTAIN STOCK.

(a) REPEAL OF EXCEPTION FOR STOCK OPTIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 1092(d)(2) (relating to special rule for stock options) is amended to read as follows:

"(B) EXCEPTION FOR QUALIFIED COVERED CALL OPTIONS.—The term 'position' shall not include any qualified covered call option."

(2) QUALIFIED COVERED CALL OPTION DEFINED.—Subsection (d) of section 1092 is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED COVERED CALL OPTION DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified covered call option' means any option granted by the taxpayer to purchase stock held by the taxpayer (or acquired by the taxpayer in connection with the granting of the option) but only if—

"(i) such option is traded on a national securities exchange which is registered with the Securities and Exchange Commission or on a similar exchange which the Secretary determines has rules adequate to carry out the purposes of this paragraph,

"(ii) gain or loss with respect to such option is not ordinary income or loss,

"(iii) such option is granted more than 30 days before the day on which the option expires, and

"(iv) such option is not a deep-in-the-money option.

"(B) DEEP-IN-THE-MONEY OPTION.—The term 'deep-in-the-money option' means an option having a strike price lower than the lowest qualified bench mark.

"(C) LOWEST QUALIFIED BENCH MARK.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'lowest qualified bench mark' means the highest available strike price which is less than the applicable stock price.

"(ii) SPECIAL RULE WHERE OPTION IS FOR PERIOD MORE THAN 90 DAYS AND STRIKE PRICE IS $50 OR MORE.—In the case of an option—

"(I) which is granted more than 90 days before the date on which such option expires, and

"(II) with respect to which the strike price is $50 or more,

the lowest qualified bench mark is the second highest available strike price which is less than the applicable stock price.

"(D) STRIKE PRICE.—For purposes of this paragraph, the term 'strike price' means the price at which the option is exercisable.

"(E) APPLICABLE STOCK PRICE.—For purposes of this paragraph, the term 'applicable stock price' means, with respect to any stock for which an option has been granted—

"(i) the closing price of such stock on the most recent day on which such stock was traded before the date on which such option was granted, or

"(ii) the opening price of such stock on the day on which such option was granted, but only if such price is greater than 110 percent of the price determined under clause (i).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations may include modifications to the provisions of this paragraph which are appropriate to take account of changes in the practices of option exchanges or to prevent the use of options for tax avoidance purposes.".

(b) REPEAL OF EXCEPTION FOR STOCK.—

(1) IN GENERAL.—Paragraph (1) of section 1092(d) (defining personal property) is amended by striking out "(other than stock)".

(2) EXCEPTION WHERE STRADDLE CONSISTS OF HOLDING STOCK.—Subsection (d) of section 1092 is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7) respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1), the term 'personal property' does not include stock, other than—

"(A) any interest in stock which is part of a straddle (determined as if such interest was personal property) one of the offsetting positions of which is any option to buy or sell actively traded stock, or

"(B) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

For purposes of determining whether subsection (e) applies to any transaction to which subparagraph (B) applies, all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.".

(c) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—Section 1092 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—If—

"(1) the taxpayer holds any stock, and

"(2) at any time while the taxpayer holds such stock, there is outstanding an option granted by the taxpayer to purchase such stock and such option has a strike price less than the applicable stock price,

any amount which (but for this subsection) would be treated as long-term capital gain with respect to such stock (or any substituted basis property with respect to such stock) shall be treated as short-term capital gain to the extent of any short-term capital loss recognized on the option.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to positions established after October 31, 1983, in taxable years ending after such date.

(2) SPECIAL RULE FOR OFFSETTING POSITION STOCK.—In the case of any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder, the amendments made by this section shall apply to positions established on or after May 23, 1983, in taxable years ending on or after such date.

(3) SUBSECTION (C).—The amendment made by subsection (c) shall apply to positions established after March 1, 1984, in taxable years ending after such date.

SEC. 76. SECTION 1256 EXTENDED TO CERTAIN OPTIONS.

(a) GENERAL RULE.—

(1) Section 1256 (relating to regulated futures contracts marked to market) is amended—

(A) by striking out "regulated futures contract" each place it appears and inserting in lieu thereof "section 1256 contract", and

(B) by striking out "regulated futures contracts" each place it appears and inserting in lieu thereof "section 1256 contracts".

(2) Subsection (b) of section 1256 is amended to read as follows:

"(b) SECTION 1256 CONTRACT DEFINED.—For purposes of this section, the term 'section 1256 contract' means—

"(1) any regulated futures contract,

"(2) any foreign currency contract,

"(3) any nonequity option, and

"(4) any dealer equity option."

(3) Subsection (g) of section 1256 is amended to read as follows:

"(g) DEFINITIONS.—For purposes of this section—

"(1) REGULATED FUTURES CONTRACTS DEFINED.—The term 'regulated futures contract' means a contract—

"(A) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market, and

"(B) which is traded on or subject to the rules of a qualified board or exchange.

"(2) FOREIGN CURRENCY CONTRACT DEFINED.—

"(A) FOREIGN CURRENCY CONTRACT.—The term 'foreign currency contract' means a contract—

"(i) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

"(ii) which is traded in the interbank market, and

"(iii) which is entered into at arm's length at a price determined by reference to the price in the interbank market.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subparagraph (A), including regulations excluding from the application of subparagraph (A) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.

"(3) NONEQUITY OPTION.—The term 'nonequity option' means any listed option which is not an equity option.

"(4) DEALER EQUITY OPTION.—The term 'dealer equity option' means, with respect to an options dealer, any listed option which—

"(A) is an equity option,

"(B) is purchased or granted by such options dealer in the normal course of his trade or business, and

"(C) is listed on the national securities exchange on which such options dealer is registered.

"(5) LISTED OPTION.—The term 'listed option' means any option (other than a right to acquire stock from the issuer) which is traded on (or subject to the rules of) a qualified board or exchange.

"(6) EQUITY OPTION.—The term 'equity option' means any option—

"(A) which settles in stock, or

"(B) the value of which is determined directly or indirectly by reference to any stock or stock index.

"(7) QUALIFIED BOARD OR EXCHANGE.—The term 'qualified board or exchange' means—

"(A) a national securities exchange which is registered with the Securities and Exchange Commission,

"(B) a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission, or

"(C) any other exchange or board of trade which the Secretary determines has rules adequate to carry out the purposes of this section.

"(8) OPTIONS DEALER.—The term 'options dealer' means—

"(A) any person registered with the Securities and Exchange Commission and an appropriate national securities exchange as a market maker or specialist in listed options, or

"(B) a person who—

"(i) is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission, and

"(ii) purchases or sells any option on any regulated futures contract and such option is on, or subject to the rules of, the domestic board of trade described in clause (i).".

(b) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—Subsection (f) of section 1256 (relating to special rules) is amended by adding at the end thereof the following new paragraphs:

"(3) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—

"(A) IN GENERAL.—For purposes of this title, gain or loss from trading of section 1256 contracts (whether or not such trading is in the ordinary course of the taxpayer's trade or business of trading section 1256 contracts) shall be treated as gain or loss from the sale or exchange of a capital asset.

"(B) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—Subparagraph (A) shall not apply to any section 1256 contract to the extent such contract is held for purposes of hedging property if any gain or loss with respect to such property in the hands of the taxpayer would be ordinary income or loss.

"(C) TREATMENT OF UNDERLYING PROPERTY.—For purposes of determining whether gain or loss with respect to any property is ordinary income or loss, the fact that the taxpayer is in the trade or business of trading section 1256 contracts related to such property shall not be taken into account.

"(4) SUBSECTION (a)(3) NOT TO APPLY TO CERTAIN LIMITED PARTNERS OR LIMITED ENTREPRENEURS.—Paragraph (3) of subsection (a) shall not apply to any gain or loss separately computed with respect to dealer equity options which are allocable to limited partners or limited entrepreneurs (within the meaning of subsection (e)(3)).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1256 (relating to terminations, etc.) is amended—

(A) by striking out "by taking or making delivery," in paragraph (1) and inserting in lieu thereof "by taking or making delivery, by exercise or being exercised by assignment or being assigned, by lapse,",

(B) by striking out "takes delivery under" in paragraph (2) and inserting in lieu thereof "takes delivery under or exercises", and

(C) by striking out "TAKES DELIVERY ON" in the heading of paragraph (2) and inserting in lieu thereof "TAKES DELIVERY ON OR EXERCISES".

(2) Subsection (d) of section 1092 (as in effect before the amendments made by section 101) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) SPECIAL RULE FOR SECTION 1256 CONTRACTS.—In the case of a straddle at least 1 (but not all) of the positions of which are section 1256 contracts, the provisions of this section shall apply to any section 1256 contract and any other position making up such straddle.

"(5) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given such term by section 1256(b).".

(3) Subsection (c) of section 1212 (relating to carryback of losses from regulated futures contracts to offset prior gains from such contracts) is amended—

(A) by striking out "net commodity futures loss" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contracts loss",

(B) by striking out "regulated futures contracts" each place it appears (including in any headings) and inserting in lieu thereof "section 1256 contracts", and

(C) by striking out "net commodity futures gain" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contract gain".

(4) Paragraph (1) of section 1234A (relating to gains or losses from certain terminations) is amended by striking out "a regulated futures contract" and inserting in lieu thereof "a section 1256 contract".

(5) The section heading for section 1256 is amended by striking out "regulated futures contracts" and inserting in lieu thereof "section 1256 contracts".

(6) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "Regulated futures contracts" and inserting in lieu thereof "Section 1256 contracts".

(7) Subparagraph (B) of section 263(g) (relating to certain interest and carrying costs in the case of straddles) is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma and "or", and by adding at the end thereof the following new clause:

"(iii) the amount of any dividends includible in gross income with respect to such property for the taxable year.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (e), the amendments made by this section shall apply to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(2) SPECIAL RULE FOR OPTIONS ON REGULATED FUTURES CONTRACTS.—In the case of any option with respect to a regulated futures contract (within the meaning of section 1256 of the Internal Revenue Code of 1954), the amendments made by this section shall apply—

(A) in the case of a nonequity option (within the meaning of section 1256(g)(3) of such Code), to positions established after October 31, 1983, in taxable years ending after such date, and

(B) in the case of an equity option (within the meaning of section 1256(g)(6) of such Code), to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(e) ELECTIONS WITH RESPECT TO PROPERTY HELD ON OR BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.—At the election of the taxpayer—

(1) the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer on the date of the enactment of this Act, effective for periods after such date in taxable years ending after such date, or

(2) in lieu of an election under paragraph (1), the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer at any time during the taxable year of the taxpayer which includes the date of the enactment of this Act.

(f) ELECTION FOR INSTALLMENT PAYMENT OF TAX ATTRIBUTABLE TO STOCK OPTIONS.—

(1) If the taxpayer makes an election under this subsection—

(A) the taxpayer may pay part or all of the tax for the taxable year referred to in subsection (e)(2) in 2 or more (but not exceeding 5) equal installments, and

(B) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(i) the tax for such taxable year determined by taking into account subsection (e)(2), over

(ii) the tax for such taxable year determined by taking into account subsection (e)(2) and by treating—

(I) all section 1256 contracts which are stock options, and

(II) any stock which was part of a straddle including any such stock options and the

income on which is ordinary income to the taxpayer,

and which were held by the taxpayer on the first day of such taxable year as having been acquired for a purchase price equal to their fair market value on the last business day of the preceding taxable year.

An election under this subsection may be made only if the taxpayer makes an election under subsection (e)(2).

(2) DATE FOR PAYMENT OF INSTALLMENT.—

(A) If an election is made under this subsection, the first installment under paragraph (1) shall be paid on or before the due date for filing the return for the taxable year described in paragraph (1), and each succeeding installment shall be paid on or before the date which is one year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(3) INTEREST IMPOSED.—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under this subsection shall be determined without regard to this subsection.

(4) FORM OF ELECTION.—An election under this subsection shall be made not later than the time for filing the return for the taxable year described in paragraph (1) and shall be made in the manner and form required by regulations prescribed by the Secretary. The election shall set forth—

(A) the amount determined under paragraph (1)(B) and the number of installments elected by the taxpayer,

(B) each section 1256 contract which is a stock option held by the taxpayer on the first day of the taxable year described in paragraph (1), and the date such contract was acquired,

(C) the fair market value on the last business day of the preceding taxable year of every contract described in subparagraph (B), and

(D) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(g) DELAY OF IDENTIFICATION REQUIREMENT.—Section 1256(e)(2)(C) of the Internal Revenue Code of 1954 shall not apply to any stock option or stock acquired on or before the 60th day after the date of the enactment of this Act.

(h) DEFINITIONS.—For purposes of subsections (e) and (f)—

(1) SECTION 1256 CONTRACT.—The term "section 1256 contract" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as amended by this section).

(2) STOCK OPTION.—The term "stock option" means any option to buy or sell stock which is described in section 1092(d)(2)(B) (as in effect before the amendments made by this Act).

SEC. 77. REGULATIONS UNDER SECTION 1092(b).

(a) GENERAL RULE.—Subsection (b) of section 1092 (relating to character of gain or loss; wash sales) is amended to read as follows:

"(b) REGULATIONS.—The Secretary shall prescribe such regulations with respect to gain or loss on positions which are part of a straddle as may be necessary to carry out the purposes of this section. To the extent consistent with such purposes, such regulations shall include rules applying the principles of subsections (a) and (d) of section 1091 and of subsections (b) and (d) of section 1233.".

(b) REQUIREMENT THAT REGULATIONS BE ISSUED WITHIN 6 MONTHS AFTER THE DATE OF ENACTMENT.—The Secretary of the Treasury or his delegate shall prescribe regulations under section 1092(b) of the Internal Revenue Code of 1954 (including regulations relating to mixed straddles) not later than the date 6 months after the date of the enactment of this Act.

SEC. 78. LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.

(a) GENERAL RULE.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS ALLOCABLE TO LIMITED PARTNERS OR ENTREPRENEURS.—

"(A) IN GENERAL.—

"(i) LIMITATION.—Any separately computed hedging loss for a taxable year which is allocable to any limited partner or limited entrepreneur (within the meaning of paragraph (3)) shall be allowed only to the extent of the taxable income of such limited partner or entrepreneur for such taxable year attributable to the trade or business in which the hedging transactions were entered into. For purposes of the preceding sentence, taxable income shall be determined by not taking into account items attributable to hedging transactions.

"(ii) CARRYOVER OF DISALLOWED LOSS.—Any hedging loss disallowed under clause (i) shall be treated as a deduction attributable to a hedging transaction allowable in the first succeeding taxable year.

"(B) EXCEPTION WHERE ECONOMIC LOSS.—Subparagraph (A)(i) shall not apply to any hedging loss to the extent that such loss exceeds the aggregate unrecognized gains from hedging transactions as of the close of the taxable year.

"(C) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—In the case of any hedging transaction relating to property other than stock or securities, this section shall only apply in the case of a taxpayer described in section 465(a)(1).

"(D) HEDGING LOSS.—The term 'hedging loss' means the excess of—

"(i) the deductions allowable under this chapter for the taxable year attributable to hedging transactions (determined without regard to subparagraph (A)(i)), over

"(ii) income received or accrued by the taxpayer during such taxable year from such transactions.

"(E) UNRECOGNIZED GAIN.—The term 'unrecognized gain' has the meaning given to such term by section 1092(a)(3).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 79. CLARIFICATION THAT SECTION 1234 APPLIES TO OPTIONS ON REGULATED FUTURES CONTRACTS AND CASH SETTLEMENT OPTIONS.

(a) GENERAL RULE.—Section 1234 (relating to options to buy or sell) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF OPTIONS ON REGULATED FUTURES CONTRACTS AND CASH SETTLEMENT OPTIONS.—

"(1) REGULATED FUTURES CONTRACTS.—Gain or loss shall be recognized on the exercise of an option on a regulated futures contract (within the meaning of section 1256(g)(1)).

"(2) CASH SETTLEMENT OPTIONS.—

"(A) IN GENERAL.—For purposes of subsections (a) and (b), a cash settlement option shall be treated as an option to buy or sell property.

"(B) CASH SETTLEMENT OPTION DEFINED.—For purposes of subparagraph (A), the term 'cash settlement option' means any option which on exercise settles in (or could be settled in) cash or property other than the underlying property.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options purchased or granted after October 31, 1983, in taxable years ending after such date.

SEC. 80. WASH SALE RULES TO APPLY TO LOSSES ON CERTAIN SHORT SALES.

(a) IN GENERAL.—Section 1091 (relating to losses from wash sales of stock or securities) is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN SHORT SALES OF STOCKS OR SECURITIES.—Rules similar to the rules of subsection (a) shall apply to any loss realized on the closing of a short sale of stock or securities if, within a period beginning 30 days before the date of such closing and ending 30 days after such date—

"(1) substantially identical stock or securities were sold, or

"(2) another short sale of substantially identical stock or securities was entered into.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to short sales of stock or securities after the date of the enactment of this Act in taxable years ending after such date.

SEC. 81. TIME FOR IDENTIFICATION BY TAXPAYER OF CERTAIN TRANSACTIONS.

(a) IDENTIFIED STRADDLES.—Clause (i) of section 1092(a)(2)(B) (defining identified straddles) is amended to read as follows:

"(i) which is clearly identified as an identified straddle before the earlier of—

"(I) the close of the day on which the straddle is acquired, or

"(II) such time as the Secretary may prescribe by regulations.".

(b) DEALERS IN SECURITIES.—Section 1236(a)(1) (relating to capital gains of dealers in securities) is amended by striking out "(before the close of the following day in the case of an acquisition before January 1, 1982)" and inserting in lieu thereof "(or such earlier time as the Secretary may prescribe by regulations)".

(c) MIXED STRADDLES.—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by inserting "(or such earlier time as the Secretary may prescribe by regulations)" after "acquired".

(d) HEDGING TRANSACTIONS.—Subparagraph (C) of section 1256(e)(2) (defining hedging transactions) is amended by inserting "(or such earlier time as the Secretary may prescribe by regulations)" after "entered into".

(e) EFFECTIVE DATE.—The amendment made by this section shall apply to items identified after the date of the enactment of this Act, in taxable years ending after such date.

SUBTITLE I—PENSIONS

PART I—GENERAL PROVISIONS

SEC. 85. DEDUCTION LIMITS FOR QUALIFIED PENSION PLANS.

(a) MODIFICATION OF SECTION 404(a)(7) LIMITS.—Paragraph (7) of section 404(a) (relating to limits on deductions of employers to employee trusts, etc.) is amended to read as follows:

"(7) DEDUCTION LIMITS.—

"(A) IN GENERAL.—If, in connection with 2 or more trusts (or 1 or more trusts and an annuity plan), amounts are deductible under—

"(i) paragraphs (1) and (3),

"(ii) paragraphs (2) and (3),

"(iii) paragraphs (1), (2), and (3), or

"(iv) paragraph (1) with respect to a defined contribution plan and a defined benefit plan,

the total amount deductible for a taxable year under such trusts and plans shall not exceed the lesser of the amount determined under subparagraph (B) of this paragraph or the amount determined under paragraph (11).

"(B) AMOUNT OF LIMITATION.—The amount determined under this subparagraph shall be equal to the greater of—

"(i) 25 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries of the trusts or plans described in subparagraph (A), or

"(ii) an amount equal to the amount of employer contributions for all defined benefit plans to which subparagraph (A) applies which is necessary to satisfy the minimum funding standard under section 412 for the plan year of such plans which end with or within such taxable year (or for any prior plan years).

"(C) CARRYOVER OF EXCESS AMOUNTS.—

"(i) IN GENERAL.—In any case in which—

"(I) the amount paid into the trusts or plans to which subparagraph (A) applies for any taxable year, exceeds

"(II) the amount determined under subparagraph (A),

such excess shall, except as provided in clause (ii), be allowed as a deduction in any succeeding taxable year in order of time.

"(ii) LIMITATION ON CARRYOVER.—The amount allowable for any succeeding taxable year under this subparagraph, when added to the amount otherwise allowable for such taxable year for payments to trusts or plans to which subparagraph (A) applies, shall not exceed the lesser of the amount determined under subparagraph (B)(i) of this paragraph or the amount determined under paragraph (11).

"(D) PARAGRAPH NOT TO APPLY.—This paragraph shall not reduce the amounts otherwise deductible under paragraphs (1), (2), and (3) if no employee is a beneficiary under more than one trust or under a trust and an annuity plan.".

(b) DEDUCTION LIMITED TO 100 PERCENT OF COMPENSATION.—

(1) IN GENERAL.—Section 404(a) is amended by adding at the end thereof the following new paragraph:

"(11) 100 PERCENT OF COMPENSATION LIMIT.—

"(A) IN GENERAL.—The amount allowable as a deduction—

"(i) with respect to any trust or plan under paragraph (1), (2), (3), (9), or (10), or

"(ii) with respect to one or more trusts or plans to which paragraph (7) applies,

shall not exceed the aggregate amount of compensation paid or accrued during the taxable year to the beneficiaries of the trusts or plans described in clause (i) or (ii).

"(B) CARRYOVER OF UNUSED AMOUNT.—In any case in which—

"(i) the amount paid into any trust or plan for which subparagraph (A) applies for any taxable year, exceeds

"(ii) the amount determined under subparagraph (A),

such excess shall, subject to the limitations of subparagraph (A) of this paragraph and paragraph (7), be allowed as a deduction in the succeeding taxable year.

"(C) COMPENSATION TO INCLUDE CERTAIN BENEFITS.—For purposes of this paragraph, there shall be taken into account as compensation the amount of any benefits paid to a beneficiary of any trust or plan to which subparagraph (A) applies during the taxable year who did not receive any compensation from any employer maintaining the trust or plan during such taxable year to the extent such benefits do not exceed the limitation under section 415(b)(1)(A) in effect with respect to such beneficiary for such taxable year.".

(2) CONFORMING AMENDMENTS.—Paragraph (8) of section 404(a) (relating to self-employed individuals) is amended by inserting "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(c) SECTION 415 LIMIT ON CERTAIN EMPLOYERS WITH DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Subsection (e) of section 415 (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN NONINTEGRATED, NON-TOP-HEAVY PLANS.—

"(A) IN GENERAL.—In the case of an individual who is a participant in plans to which this paragraph applies, paragraphs (2) and (3) shall be applied by substituting '1.4' for '1.25' each place it appears.

"(B) PLANS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to all plans maintained by any employer if, at all times after June 30, 1982, no plan of the employer is—

"(i) a top-heavy plan (within the meaning of section 416(g)), or

"(ii) an integrated plan (within the meaning of section 408(k)(3)(E)).".

(d) EXTENSION OF FREEZE ON COST-OF-LIVING ADJUSTMENTS TO PENSION PLAN LIMITATIONS.—

(1) GENERAL RULE.—Paragraph (3) of section 415(d) (relating to freeze on adjustment to define contribution and benefit limits) is amended by striking out "January 1, 1986" and inserting in lieu thereof "January 1, 1988".

(2) TECHNICAL AMENDMENT.—Subparagraph (A) of section 415(d)(2) (defining base periods), as amended by section 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986".

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to years beginning after December 31, 1984.

SEC. 86. PROVISIONS RELATING TO TOP-HEAVY PLANS.

(a) REPEAL OF SPECIAL BENEFIT REQUIREMENT FOR CERTAIN TOP-HEAVY PLANS.

(1) IN GENERAL.—Paragraph (2) of section 416(h) (relating to exception where benefits for key employees do not exceed 90 percent of total benefits, etc.) is amended to read as follows:

"(2) EXCEPTION WHERE ADDITIONAL CONTRIBUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any top-heavy plan if the requirements of subparagraph (B) of this paragraph are met with respect to such plan.

"(B) MINIMUM BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any top-heavy plan if such plan (and any plan required to be included in an aggregation group with such plan) meets the requirements of subsection (c) as modified by clause (ii).

"(ii) MODIFICATIONS.—For purposes of clause (i)—

"(I) paragraph (1)(B) of subsection (c) shall be applied by substituting '3 percent' for '2 percent', and by increasing (but not by more than 10 percentage points) 20 percent by one percentage point for each year for which such plan was taken into account under this subsection, and

"(II) paragraph (2)(A) shall be applied by substituting '4 percent' for '3 percent'.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(b) DEFINITION OF KEY EMPLOYEE.—

(1) IN GENERAL.—Clause (i) of section 416(i)(1)(A) (defining key employee) is amended by inserting "having an annual compensation greater than 200 percent of the amount in effect under section 415(c)(1)(A) for any such plan year" after "employer".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(c) ACCRUED BENEFIT OF INDIVIDUAL NOT EMPLOYED WITHIN LAST FIVE YEARS DISREGARDED.—

(1) IN GENERAL.—Paragraph (4) of section 416(g) (relating to other special rules) is amended by adding at the end thereof the following new subparagraph:

"(E) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE NOT EMPLOYED FOR LAST FIVE YEARS.—If any individual has not received any compensation from any employer maintaining the plan (other than benefits under the plan) at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(d) SALARY REDUCTION ARRANGEMENTS MAY BE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 416(c) (relating to minimum benefits for defined contribution plans) is amended by striking out subparagraph (C).

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(e) CERTAIN GOVERNMENTAL PLANS EXEMPT FROM TOP-HEAVY PLAN RULES.—

(1) IN GENERAL.—Paragraph (10)(B) of section 401(a) (relating to plan requirements regarding top-heavy plans) is amended by adding at the end thereof the following new clause:

"(iii) EXEMPTION FOR GOVERNMENTAL PLANS.—This subparagraph shall not apply to any governmental plan.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(f) QUALIFICATION REQUIREMENTS MODIFIED IF REGULATIONS NOT ISSUED.—

(1) IN GENERAL.—If the Secretary of the Treasury or his delegate does not publish final regulations under section 416 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) before January 1, 1985, the Secretary shall publish before such date plan amendment provisions which may be incorporated in a plan to meet the requirements of section 401(a)(10)(B)(ii) of such Code.

(2) EFFECT OF INCORPORATION.—If a plan is amended to incorporate the plan amendment provisions described in paragraph (1), such plan shall be treated as meeting the requirements of section 401(a)(10)(B)(ii) of the Internal Revenue Code of 1954 during the period such amendment is in effect but not later than 6 months after the final regulations described in paragraph (1) are published.

(3) FAILURE BY SECRETARY TO PUBLISH.—If the Secretary of the Treasury or his delegate does not publish plan amendment provisions described in paragraph (1), the plan shall be treated as meeting the requirements of section 401(a)(10)(B) of the Internal Revenue Code of 1954 if—

(A) such plan is amended to incorporate such requirements by reference, except that

(B) in the case of any optional requirement under section 416 of such Code, if such amendment does not specify the manner in which such requirement will be met, the employer shall be treated as having elected the requirement with respect to each employee which provides the maximum vested accrued benefit for such employee.

SEC. 87. DISTRIBUTION RULES FOR QUALIFIED PENSION PLANS.

(a) CERTAIN DISTRIBUTION REQUIREMENTS TO APPLY TO 5-PERCENT OWNERS RATHER THAN KEY EMPLOYEES.—Section 72(m)(5) (relating to penalties applicable to certain amounts received by owner-employers) is amended—

(1) by striking out "key employee" each place it appears in subparagraph (A) and inserting in lieu thereof "5-percent owner",

(2) by striking out "in a top-heavy plan" in clause (i) of subparagraph (A), and

(3) by striking out "the terms 'key employee' and 'top-heavy plan'" in subparagraph (C) and inserting in lieu thereof "the term '5-percent owner'".

(b) REQUIRED DISTRIBUTIONS.—

(1) IN GENERAL.—Paragraph (9) of section 401(a) (relating to required distributions), as in effect before the amendments made by section 242 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended to read as follows:

"(9) REQUIRED DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that the entire interest of each employee will be distributed in accordance with the requirements of—

"(i) subparagraph (B) or (C)(i) in the case of distributions commencing before death, and

"(ii) subparagraph (C)(ii) or (D) in the case of—

"(I) distributions commencing after death, or

"(II) distributions commencing before death to which subparagraph (B) applies.

"(B) DISTRIBUTION BEFORE ATTAINMENT OF CERTAIN AGE.—The requirements of this subparagraph are met if the entire interest of an employee will be distributed to the employee not later than 90 days after the later of—

"(i) the taxable year in which the employee attains age 70½, or

"(ii) the taxable year in which the employee retires.

"(C) DISTRIBUTIONS BASED ON LIVES AND PERIODS NOT GREATER THAN LIFE EXPECTANCY.—Except as provided in subparagraph (E), the requirements of this subparagraph are met if—

"(i) ENTIRE INTEREST.—The entire interest will be distributed, commencing not later than the date determined under subparagraph (B)—

"(I) over the life of the employee and over the lives of the employee and the beneficiary of the employee, or

"(II) over a period not extending beyond the life expectancy of the employee or the life expectancy of the employee and the beneficiary of the employee.

"(ii) REMAINDER INTEREST.—The remainder interest of the employee or of the surviving spouse will be distributed, commencing not later than 90 days after the date of death of the employee or the surviving spouse—

"(I) over the life of the beneficiary of the employee or of the beneficiary of the surviving spouse, or

"(II) over a period not extending beyond the life expectancy of such beneficiary.

"(D) DISTRIBUTIONS WITHIN 5 YEARS OF DEATH.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the remainder interest of an employee or other beneficiary will be distributed—

"(I) commencing not later than 90 days after the date of death of the employee or beneficiary, and

"(II) within 5 years after the date determined under subclause (I).

"(ii) SUBPARAGRAPH NOT TO APPLY TO SURVIVING SPOUSE.—In any case in which the beneficiary of the employee is the employee's surviving spouse—

"(I) this subparagraph shall not apply, and

"(II) the requirements of clause (i) or (ii) of subparagraph (C) must be met with respect to the surviving spouse.

"(E) IMMEDIATE ANNUITY REQUIREMENT IN CASE OF BENEFICIARY OTHER THAN SPOUSE.—

"(i) IN GENERAL.—In the case of any interest of an employee—

"(I) to which subparagraph (C) applies, and

"(II) with respect to which the beneficiary is not the spouse of the employee,

the requirements of subparagraph (C) shall be met only if the entire interest or remainder interest is applied, before the commencement date under such subparagraph, to the purchase of an immediate annuity contract which provides for payments over the period which is applicable under such subparagraph.

"(ii) DEFINED BENEFIT PLAN.—A defined benefit plan may satisfy the requirements of clause (i) in any case to which subparagraph (C) applies by providing for the payment of an annuity in lieu of the purchase of an immediate annuity contract.

"(F) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) 5-PERCENT OWNERS.—Clause (ii) of subparagraph (B) shall not apply with respect to any employee who is a 5-percent owner (as defined in section 416) with respect to the plan year in which the employee attains age 70 1/2.

"(ii) LIFE EXPECTANCY.—For purposes of subparagraph (C), the life expectancy of an employee and the employee's spouse (other than in the case of a life annuity) shall be determined not more frequently than annually.

"(iii) EXTENSION OF COMMENCEMENT DATE.—The Secretary may by regulation extend the date on which distribution of any interest is required to commence under this paragraph.

"(iv) REMAINDER INTEREST DEFINED.—The term 'remainder interest' means, with respect to any employee or beneficiary, that portion of the employee's interest which remains undistributed as of the date of death of such individual.

"(v) DISTRIBUTIONS IN ACCORDANCE WITH REGULATIONS.—Any distribution under this paragraph shall be made in accordance with regulations prescribed by the Secretary.".

(2) REPEAL OF SECTION 242.—Section 242 of the Tax Equity and Fiscal Responsibility Act of 1982 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 408(a) (defining individual retirement account) is amended by adding at the end thereof the following new flush sentence:

"For purposes of this paragraph (other than for a life annuity), the life expectancy of any individual for whose benefit the trust is maintained or his spouse shall be determined not more frequently than annually.".

(2)(A) Subsection (a) of section 408 is amended by adding at the end thereof the following new paragraph:

"(8) Under regulations prescribed by the Secretary, the trust shall be treated as meeting the requirements of paragraph (7) if the trust meets requirements similar to the requirements of subparagraphs (C)(ii) and (E) of section 401(a)(9) in the case of a beneficiary other than the spouse. For purposes of the preceding sentence, such requirements shall be treated as met only if the immediate annuity contract is distributed to the owner or beneficiary immediately after its purchase.".

(B) Subsection (b) of section 408 (defining individual retirement annuity) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) Under regulations prescribed by the Secretary, the contract shall be treated as meeting the requirements of paragraph (4) if the contract meets requirements similar to the requirements of subparagraphs (C)(ii) and (E) of section 401(a)(9) with respect to any beneficiary other than the spouse. For purposes of the preceding sentence, such requirements shall be treated as met only if the immediate annuity contract is distributed to the owner or beneficiary immediately after its purchase.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1984.

(2) REPEAL OF SECTION 242.—The amendment made by section (b)(2) shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982.

(3) TRANSITION RULE.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (b)(1), by reason of distributions under a designation (before January 1, 1984) by any employee in accordance with a designation described in section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (as in effect before the amendments made by this Act).

(4) SPECIAL RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1954) paragraph (1) shall be applied by substituting "1986" for "1984".

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained on the date of the enactment of this Act pursuant to one or more collective bargaining agreements between employee rep-

resentatives and one or more employers, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1988.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 88. ROLLOVER OF CERTAIN PARTIAL DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

(1) QUALIFIED TRUSTS.—Clause (i) of section 402(a)(5)(A) (relating to rollover amounts) is amended to read as follows—

"(i) any portion of the balance to the credit of an employee in a qualified trust is paid to him,".

(2) QUALIFIED ANNUITIES.—Clause (i) of section 403(a)(4)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him,".

(3) SECTION 403(b) ANNUITIES.—Clause (i) of section 403(b)(8)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an annuity contract described in paragraph (1) is paid to him,".

(b) SPECIAL RULES FOR ROLLOVERS OF PARTIAL DISTRIBUTIONS.—Paragraph (5) of section 402(a) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) REQUIREMENTS.—Subparagraph (A) shall apply to a partial distribution only if—

"(I) such distribution is of an amount equal to at least 50 percent of the balance to the credit of the employee in a qualified trust (determined immediately before such distribution and without regard to subsection (e)(4)(C)),

"(II) such distribution is not one of a series of periodic payments, and

"(III) the employee elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have subparagraph (A) apply to such partial distribution.

"(ii) PARTIAL DISTRIBUTIONS MAY BE TRANSFERRED ONLY TO INDIVIDUAL RETIREMENT PLANS.—In the case of a partial distribution, a plan described in subclause (IV) or (V) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan.

"(iii) DENIAL OF 10-YEAR AVERAGING AND CAPITAL GAINS TREATMENT FOR SUBSEQUENT DISTRIBUTIONS.—If an election under clause (i) is made with respect to any partial distribution paid to any employee—

"(I) paragraph (2) of this subsection,

"(II) paragraphs (1) and (3) of subsection (e), and

"(III) paragraph (2) of section 403(a),

shall not apply to any distribution (paid after such partial distribution) of the balance to the credit of such employee under the plan under which such partial distribution was made (or under any other plan which, under subsection (e)(4)(C), would be aggregated with such plan).

"(iv) SPECIAL RULE FOR UNREALIZED APPRECIATION.—If an election under clause (i) is made with respect to any partial distribution, the second and third sentences of paragraph (1) shall not apply to such distribution.".

(c) PARTIAL DISTRIBUTIONS PAID TO SPOUSE OF EMPLOYEE AFTER EMPLOYEE'S DEATH ELIGIBLE FOR ROLLOVER.—Paragraph (7) of section 402(a) (relating to rollover where spouse receives lump-sum distribution at death of employee) is amended to read as follows:

"(7) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTIONS AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, paragraph (5) shall apply to such distribution in the same manner as if the spouse were the employee.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "qualifying rollover distribution" each place it appears and inserting in lieu thereof "qualified total distribution"—

(A) section 402(a)(5)(B),

(B) section 402(a)(5)(E)(i) (as redesignated by subsection (b)), and

(C) section 402(a)(6)(E)(i).

(2) Subparagraph (B) of section 402(a)(5) is amended by adding at the end thereof the following new sentence: "In the case of any partial distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to subparagraph (A))."

(3) Clause (ii) of section 402(a)(5)(E) (as redesignated by subsection (b)) is amended by striking out "gross income" and inserting in lieu thereof "gross income (determined without regard to this paragraph)".

(4) Clause (v) of subparagraph (E) of section 402(a)(5) (as redesignated by subsection (b)) is amended to read as follows:

"(v) PARTIAL DISTRIBUTION.—The term 'partial distribution' means any distribution to an employee of any portion of the balance to the credit of such employee in a qualified trust; except that such term shall not include any distribution which is a qualified total distribution."

(5) Subparagraph (F) of section 402(a)(5) (as redesignated by subsection (b)) is amended by striking out "subparagraph (D)(iv)" each place it appears and inserting in lieu thereof "subparagraph (E)(iv)".

(6) Paragraph (6) of section 402(a) is amended by striking out "paragraph (5)(D)(i)" each place it appears and inserting in lieu thereof "paragraph (5)(E)(i)".

(7) Clauses (iii) and (iv) of section 402(a)(6)(D) are each amended by striking out "employee contributions" and inserting in lieu thereof "employee contributions (or, in the case of a partial distribution, the amount not includible in gross income)".

(8) Clause (i) of section 402(a)(6)(E) is amended by striking out "paragraph (5)(D)(i)(II)" and inserting in lieu thereof "paragraph (5)(D) or (5)(E)(i)(II)".

(9) Subparagraph (B) of section 403(a)(4) is amended by striking out "(B) through (E)" and inserting in lieu thereof "(B) through (F)".

(10) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

"(B) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) IN GENERAL.—In the case of any distribution other than a total distribution, rules similar to the rules of clauses (i) and (ii) of section 402(a)(5)(D) shall apply.

"(ii) TOTAL DISTRIBUTION.—For purposes of subparagraph (A), the term 'total distribution' means one or more distributions from an annuity contract described in paragraph (1) which would constitute a lump-sum distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a), or 1 or more distributions of accumulated deductible employee contributions (within the meaning of section 7205).

"(iii) AGGREGATION OF ANNUITY CONTRACTS.—For purposes of this paragraph, all annuity contracts described in paragraph (1) purchased by an employer shall be treated as a single contract, and section 402(e)(4)(C) shall not apply.".

(11) Subparagraph (C) of section 403(b)(8) is amended by striking out "(D)(v), and (E)(i)" and inserting in lieu thereof "(F)(i)".

(12) Clause (ii) of section 408(d)(3)(A) is amended by striking out "rollover contribution from an employee's trust" and inserting in lieu thereof "rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) from an employee's trust".

(13) Subparagraph (C) of section 409(b)(3) is amended by striking out the second sentence and inserting in lieu thereof the following new sentences: "This subparagraph does not apply in the case of a transfer to such an employee's trust or such an annuity unless no part of the value of such proceeds is attributable to any source other than a qualified rollover contribution. For purposes of the preceding sentence, the term 'qualified rollover contribution' means any rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) which is from such an employee's trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under such plan), and which did not qualify as a rollover contribution by reason of section 402(a)(7)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 89. TREATMENT OF DISTRIBUTIONS OF BENEFITS SUBSTANTIALLY ALL OF WHICH ARE DERIVED FROM EMPLOYEE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR PLANS WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.—

"(A) IN GENERAL.—In the case of any plan or contract to which this paragraph applies, subparagraph (D) of paragraph (5) shall not apply to any amount received from such plan or contract.

"(B) PLANS OR CONTRACTS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any trust or contract described in clause (i) or subclause (I) or (II) of clause (ii) of paragraph (5)(D) if substantially all of the accrued benefits under the plan of which such trust is a part (or which pur-

chases such contract) are derived from employee contributions, and

"(ii) any contract described in subclause (III) of clause (ii) of paragraph (5)(D) if substantially all of the benefits are derived from amounts which are not excluded from gross income under section 403(b)(1).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 72(e)(5) (relating to contracts under qualified plans) is amended by striking out "This" and inserting in lieu thereof "Except as provided in paragraph (7), this".

(2) Paragraph (3) of section 72(p) (defining qualified employer plan) is amended by inserting "other than a plan described in subsection (e)(7)" after "section 219(e)(3)".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to any amount received or loan made after the 90th day after the date of the enactment of this Act.

SEC. 90. REPEAL OF ESTATE TAX EXCLUSION FOR QUALIFIED PENSION PLAN BENEFITS.

(a) IN GENERAL.—Section 2039 (relating to inclusion in the gross estate of annuities) is amended by striking out subsections (c), (d), (e), (f), and (g).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1984.

(2) EXCEPTION FOR PARTICIPANTS IN PAY STATUS.—The amendments made by this section shall not apply to the estate of any decedent who—

(A) was a participant in any plan who was in pay status on December 31, 1984, and

(B) irrevocably elected before the date of the enactment of this Act, the beneficiary and form of benefit.

(3) PAY STATUS RULE EXTENDED TO $100,000 LIMITATION.—Subsection (c) of section 245 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting ", except that such amendments shall not apply to the estate of any decedent who was a participant in any plan who was in pay status on December 31, 1982, and irrevocably elected before January 1, 1983, the beneficiary and form of benefit".

SEC. 91. AFFILIATED SERVICE GROUPS, EMPLOYEE LEASING ARRANGEMENTS, AND COLLECTIVE BARGAINING AGREEMENTS.

(a) ATTRIBUTION RULES FOR AFFILIATED SERVICE GROUPS.—

(1) IN GENERAL.—Subparagraph (B) of section 414(m)(6), as in effect for taxable years beginning after December 31, 1983, is amended by striking out "section 267(c)" and inserting in lieu thereof "section 318(a)".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1984.

(b) EMPLOYEE LEASING EXCEPTION ONLY APPLIES TO NON-EMPLOYEES.—

(1) IN GENERAL.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out "any person" in the material preceding subparagraph (A) and inserting in lieu thereof "any person who is not an employee of the recipient and".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1983.

(c) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—

(1) IN GENERAL.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(46) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term 'employee representatives' shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on April 1, 1984.

PART II—WELFARE BENEFIT PLANS

SEC. 95. ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

(a) GENERAL RULE.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 505. ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).

"(a) CERTAIN REQUIREMENTS MUST BE MET IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).—

"(1) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS, ETC.—An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan of an employer shall not be exempt from tax under section 501(a) unless such plan meets the requirements of paragraphs (1), (2), and (3) of subsection (b).

"(2) SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFIT TRUSTS.—A trust described in paragraph (17) of subsection (c) of section 501 shall not be exempt from tax under section 501(a) unless the plan of which such trust is a part meets the requirements of paragraphs (1) and (3) of subsection (b).

"(3) EXCEPTION FOR MULTIEMPLOYER PLANS.—Paragraphs (1) and (2) shall not apply to any organization which is part of a multiemployer plan (within the meaning of section 414(f)) maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.

"(b) REQUIREMENTS.—

"(1) LIMITATION ON BENEFITS PROVIDED TO KEY EMPLOYEES.—A plan meets the requirements of this paragraph for a year only if, with respect to each class of benefits, the benefits of such class provided under the plan (determined without regard to actual benefit payments) during such year to key employees do not exceed 25 percent of the benefits of such class provided under such plan (as so determined) during such year.

"(2) NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph only if—

"(i) each class of benefits available under the plan benefits a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

"(ii) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated employees.

A life insurance, disability, severance pay, or supplemental unemployment benefit shall not be considered to fail to meet the requirements of clause (ii) merely because the class of benefits bears a uniform relationship to the total compensation, or to the basic or regular rate of compensation, of employees covered by the plan.

"(B) AGGREGATION RULES.—Rules similar to the rules of section 4976(g)(4) shall apply for purposes of this subsection.

"(3) PLAN MUST MEET OTHER REQUIREMENTS FOR EXCLUSION.—A plan meets the requirements of this paragraph for any taxable year only if with respect to each class of benefits—

"(A) which is excludible from gross income under this title, and

"(B) with respect to which the plan must meet any requirements of this title before such benefits are so excludible,

the plan meets such requirements.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) KEY EMPLOYEE.—

"(A) IN GENERAL.—The term 'key employee' has the meaning given such term by section 416(i)(1) (determined without regard to clause (ii) or (iv) of subparagraph (A) thereof).

"(B) MEMBERS OF FAMILY OF KEY EMPLOYEE.—Any member of the family (within the meaning of section 318(a)(1)) of a key employee shall be treated as a key employee.

"(C) INDIVIDUAL CONTINUES TO BE KEY EMPLOYEE.—Any individual who becomes a key employee with respect to any plan shall continue to be treated as a key employee with respect to such plan whether or not the key employee continues to be described in section 416(i)(1) (as modified by this paragraph).

"(2) HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this subsection, the term 'highly compensated individual' has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting '10 percent' for '25 percent'.

"(3) APPLICATION WITH SECTIONS 127 AND 129.—If section 127 (relating to educational assistance) or section 129 (relating to dependent care assistance) apply to 1 or more classes of benefits under a plan to which this section applies, paragraphs (1) and (2) of subsection (b) shall not apply to such classes of benefits.

"(4) FAILURE WITH RESPECT TO FACILITIES.—An organization to which this section applies shall not fail to be exempt from tax under section 501(a) merely because the plan fails to meet the requirements of paragraph (1) of subsection (b) with respect to a class of benefits which consists of the use of a facility.

"(5) PLANS DEFINED; INDEPENDENT CONTRACTORS.—Rules similar to the rules of paragraphs (2) and (3) of section 4976(h) in application of this section.

"(6) REGULATIONS RELATING TO CLASSES OF BENEFITS.—The Secretary may prescribe regulations for determining—

"(A) the method by which benefits may be assigned to a class for purposes of subsection (b), and

"(B) the amount of benefits allocated to an employee under subsection (b)(1).

"(7) REPORTING REQUIREMENT.—Any employer who maintains an organization to which this section applies shall include, in any return of the tax imposed by chapter 1 for any taxable year, information as to whether such organization meets the requirements of this section for years of the organization ending with or within such taxable year.

"(8) ORGANIZATION.—The term 'organization' includes any trust to which this section applies.".

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1984.

SEC. 96. EXCISE TAXES INVOLVING FUNDED WELFARE BENEFIT PLANS.

(a) IN GENERAL.—Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4976. TAXES INVOLVING FUNDED WELFARE BENEFIT PLANS.

"(a) GENERAL RULE.—If any employer maintains a welfare benefit fund and such fund—

"(1) is a top-heavy welfare benefit plan for any year, and

"(2) has an excess reserve amount as of the close of such year,

there is hereby imposed on such employer a tax equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) shall be equal to the sum of the amounts determined under paragraphs (2) and (3).

"(2) TAX ON EXCESS RESERVE AMOUNT.—The amount determined under this paragraph with respect to any year shall be equal to the product of—

"(A) the excess of—

"(i) the excess reserve amount as of the close of the year, over

"(ii) the portion of the excess reserve amount taken into account under subsection (a) for any preceding year, multiplied by

"(B) the highest rate of tax imposed by section 11(b) for taxable years beginning in the calendar year with or within which such year ends.

"(3) TAX ON DEFERRED AMOUNT.—The amount determined under this paragraph shall be equal to the amount of interest (computed under section 6621) on the amount of the excess described in paragraph (2)(A)—

"(A) which is allocable to any year preceding the year described in paragraph (2) which begins after the date of the enactment of this section, and

"(B) over the period beginning with the close of the year described in subparagraph (A) and ending with the close of the year described in paragraph (2).

For purposes of this paragraph, any amount which is allocable to any year beginning before the date of the enactment of this section shall be treated as allocable to the first year beginning after such date.

"(4) ALLOCATION OF RESERVE AMOUNTS.—For purposes of paragraph (3), the excess reserve amount as of the close of any year to which paragraph (2) applies shall be allocable to the first year of the fund to which paragraph (3) could apply unless the taxpayer establishes that such excess reserve amount is allocable to other years.

"(c) EXCISE TAX ON KEY EMPLOYEES.—

"(1) IN GENERAL.—If, for any year, a welfare benefit fund is a top-heavy welfare benefit fund, there is hereby imposed for such year on each key employee a tax equal to—

"(A) the amount of benefits (excluding the fair market value of the use of any facility), multiplied by

"(B) the highest rate of tax imposed under section 1(c).

"(2) TOP-HEAVY WELFARE BENEFIT FUND.—For purposes of paragraph (1), the term 'top-heavy welfare benefit fund' has the meaning given such term by subsection (f), except that subsection (f)(1) shall be applied—

"(A) by substituting '25 percent' for '50 percent', and

"(B) without regard to the phrase '(other than the use of facilities)'.

"(d) SEPARATE EXCISE TAXES WITH RESPECT TO FACILITIES.—

"(1) TAX ON KEY EMPLOYEES.—

"(A) IN GENERAL.—If the benefits provided to key employees for the use of any facility exceed 25 percent of the benefits provided to all employees for use of such facility for any year, there is hereby imposed on each key employee a tax equal to the fair market value of the use of such facility by such key employee during the year.

"(B) EXCEPTION FOR EDUCATIONAL OR DEPENDENT CARE FACILITY.—Paragraph (1) shall not apply to the use of any facility to provide educational assistance or dependent care assistance (within the meaning of sections 127 and 129).

"(2) TAX ON EMPLOYERS.—

"(A) IN GENERAL.—If, as of the close of any year, a welfare benefit fund is a top-heavy welfare benefit fund, there is hereby imposed on the employer maintaining such fund a tax equal to the product of—

"(i) the fair market value (as of such time) of any facility of the fund used to provide benefits, multiplied by,

"(ii) the highest rate of tax imposed by section 11(b) for taxable years beginning in the calendar year with or within such year ends.

"(B) NO DOUBLE TAX.—No tax shall be imposed under subparagraph (A) with respect to any facility to the extent of the fair market value of such facility with respect to which a tax was previously imposed on such employer under subparagraph (A).

"(C) TOP-HEAVY WELFARE BENEFIT FUND.—For purposes of this paragraph, the term 'top-heavy welfare benefit fund' has the meaning given such term by subsection (f), except that subsection (f) shall be applied without regard to the phrase '(other than use of facilities)'.

"(e) WELFARE BENEFIT FUND.—For purposes of this section—

"(1) IN GENERAL.—The term 'welfare benefit fund' means any fund—

"(A) which is part of a plan of an employer, and

"(B) through which the employer provides welfare benefits to employees or their beneficiaries.

"(2) WELFARE BENEFIT.—The term 'welfare benefit' means any benefit other than a benefit with respect to which—

"(A) section 83(h) applies,

"(B) section 404 applies,

"(C) section 404A applies, or

"(D) an election under section 463 applies.

"(3) FUND.—The term 'fund' means—

"(A) any organization described in paragraph (7), (9), (17), or (20) of section 501(c), and

"(B) any trust, corporation, or other organization (including any account held for an employer by such organization) not exempt from the tax imposed by this chapter.

"(f) TOP-HEAVY WELFARE BENEFIT FUND.—For purposes of this section—

"(1) IN GENERAL.—The term 'top-heavy welfare benefit fund' means any welfare benefit fund under which the percentage of any class of benefits (other than the use of facilities) provided for key employees exceeds 50 percent of the benefits of such class provided under such plan during such year.

"(2) SPECIAL RULE FOR EDUCATIONAL AND DEPENDENT CARE BENEFITS.—In the case of a welfare benefit fund, such fund shall be treated as a top-heavy welfare benefit fund only if, in the case of a class of benefits to which section 127 or 129 applies, the fund fails to meet the requirements of paragraph (1) and the requirements of section 127 or 129 with respect to such class of benefits.

"(g) EXCESS RESERVE AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess reserve amount' means the excess of—

"(A) the sum of—

"(i) the money and the fair market value of other property of the welfare benefit fund as of the close of the year, and

"(ii) the amount of benefits paid by the fund during such year, reduced by any contributions received by the fund during such year, over

"(B) the reserve limit with respect to such year.

"(2) RESERVE LIMIT.—The term 'reserve limit' means the sum of—

"(A) 3 times the average annual benefits paid by the welfare benefit fund during the year and the preceding year to employees with permanent and total disabilities (within the meaning of section 105(d)(4)) on account of such disabilities, and

"(B) one-third of the average annual benefits paid by the welfare benefit fund during the year and the preceding year for medical care (within the meaning of section 213), severance pay, and supplemental unemployment compensation.

For purposes of this paragraph, there shall not be taken into account as benefits paid any amount paid for insurance premiums.

"(h) DEFINITIONS AND OTHER SPECIAL RULES.—

"(1) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 505 (c)(1).

"(2) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF PLAN.—If—

"(A) there is no plan, but

"(B) there is a method or arrangement of employer contributions or benefits which has the effect of a plan,

this section shall apply as if there were a plan.

"(3) EXTENSION TO PLANS FOR INDEPENDENT CONTRACTORS.—If any fund would be a welfare benefit fund (as modified by paragraph (2)) but for the fact that there is no employee-employer relationship—

"(A) this section shall apply as if there were such plan, and

"(B) any references in this section to the employer shall be treated as a reference to the person for whom services are provided, and any reference in this section to an employee shall be treated as a reference to the person providing the services.

"(4) AGGREGATION RULES.—For purposes of this section—

"(A) AGGREGATION OF FUNDS OF EMPLOYER.—All welfare benefit funds of an employer shall be treated as one fund.

"(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414 (m) (5) (B) shall be applied by substituting 'section 318' for 'section 267 (c)'.

"(5) PLAN MAINTAINED BY MORE THAN 1 EMPLOYER.—In the case of a plan maintained by more than 1 employer, this section shall be applied to such plan in accordance with regulations prescribed by the Secretary.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4976. Taxes involving funded welfare benefit plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1984.

SEC. 97. TREATMENT OF CERTAIN MEDICAL, ETC., BENEFITS UNDER SECTION 415.

(a) GENERAL RULE.—Section 415 (relating to limitations on benefits and contributions under qualified plan) is amended by adding at the end thereof the following new subsection:

"(l) TREATMENT OF CERTAIN MEDICAL BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, contributions allocated to any individual medical account which is part of a pension plan for any year for which such plan is a top-heavy plan (within the meaning of section 416) shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c).

"(2) INDIVIDUAL MEDICAL BENEFIT ACCOUNT.—For purposes of paragraph (1), the term 'individual medical benefit account' means any separate account—

"(A) which is established for a participant under a pension plan, and

"(B) from which benefits described in section 401(h) are payable solely to such participant, his spouse, or his dependents.".

(b) REQUIREMENT THAT SEPARATE ACCOUNT BE MAINTAINED FOR 5-PERCENT OWNER.—Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) in the case of an employee who is a 5-percent owner, a separate account is established and maintained for such benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a 5-percent owner) are only payable to such employee (and his spouse and dependents) from such separate account.

For purposes of paragraph (6), the term '5-percent owner' means any employee who, at any time during any of the 5 preceding plan years, is a 5-percent owner (as defined in section 416(i)(1)(B)).".

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

SEC. 98. EMPLOYER AND EMPLOYEE BENEFIT ASSOCIATION TREATED AS RELATED PERSONS UNDER SECTION 1239.

(a) GENERAL RULE.—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYER AND RELATED EMPLOYEE ASSOCIATION.—For purposes of subsection (a), the term 'related person' also includes—

"(1) an employer and any person related to the employer (within the meaning of subsection (b)), and

"(2) a welfare benefit fund (within the meaning of section 4376(e)) which is controlled directly or indirectly by persons referred to in paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

PART III—RETIREMENT SAVINGS INCENTIVES

SEC. 100. SPECIAL RULES RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) INCREASE IN AMOUNTS INDIVIDUALS MAY CONTRIBUTE ON BEHALF OF THEIR SPOUSE.—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 any individual—

"(A) with respect to whom a deduction is otherwise allowable under subsection (a) for any taxable year, and

"(B) who files a joint return for such taxable year,

there shall be allowed as a deduction any amount paid in cash for the taxable year by or on behalf of the individual to an individual retirement plan established for the benefit of the individual's spouse.

"(2) LIMITATION ON AMOUNT OF DEDUCTION.—The amount allowable as a deduction under paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

"(i) the applicable amount, or

"(ii) an amount equal to the sum of the compensation includible in the individual's and the spouse's gross income for the taxable year, over

"(B) the sum of the amounts allowed as a deduction for such individual and such spouse under subsection (a) for the taxable year.

In no event shall the amount allowable for a deduction under paragraph (1) exceed $2,000.

"(3) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount shall be determined in accordance with the following table:

"In the case of a taxable year beginning in:	The applicable amount is:
1985 and 1986	$2,750
1987 and 1988	$3,250
1989 and 1990	$3,750
1991 and thereafter	$4,000.".

(b) CERTAIN ALIMONY TO BE TREATED AS COMPENSATION.—

(1) IN GENERAL.—Paragraph (1) of section 219(f) (defining compensation) is amended by adding at the end thereof the following new sentence: "The term 'compensation' shall include any amount includable in the individual's gross income under paragraph (1) of section 71(a) (relating to decree of divorce or separate maintenance).".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 219 is amended by striking out paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

PART IV—EMPLOYEE STOCK OWNERSHIP PROVISIONS

SEC. 101. NONRECOGNITION OF GAIN ON STOCK SOLD TO EMPLOYEES WHERE QUALIFIED REPLACEMENT PROPERTY ACQUIRED.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. SALES OF STOCK TO EMPLOYEES.

"(a) NONRECOGNITION OF GAIN.—

"(1) IN GENERAL.—If—

"(A) qualified securities are sold by the taxpayer to a tax credit employee stock ownership plan (as defined in section 409A) or to an employee stock ownership plan (as defined in section 4975(e)(7)), or to an eligible worker-owned cooperative, and

"(B) within the qualified period, qualified replacement property is purchased by the taxpayer,

then the gain (if any) from such sale shall, at the election of the taxpayer, be recognized only to the extent that the amount realized on such sale exceeds the cost to the taxpayer of such qualified replacement property.

"(2) ELECTION.—The election under paragraph (1) shall be made by filing with the Secretary a statement (in such manner as the Secretary may by regulations prescribe) of such election not later than the last day prescribed by law (including extensions thereof) for filing the return of the tax imposed by this chapter for the taxable year in which the sale occurs.

"(b) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SECURITIES.—The term 'qualified securities' means employer securities (as defined in section 409A(l))—

"(A) which are issued by a domestic corporation that has no securities outstanding that are readily tradable on an established securities market,

"(B) with respect to which the taxpayer's holding period is more than 1 year, and

"(C) which were not received by the taxpayer in a distribution from a plan described in section 401(a) or as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(2) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' means any organization—

"(A) to which part I of subchapter T applies,

"(B) a majority of the membership of which is comprised of employees of such organization,

"(C) a majority of the voting stock of which is owned by members,

"(D) a majority of the board of directors of which is elected by the members on the basis of 1 person 1 vote, and

"(E) a majority of the allocated earnings and losses of which are allocated to members on the basis of—

"(i) patronage,

"(ii) capital contributions, or

"(iii) some combination of clauses (i) and (ii).

"(3) QUALIFIED PERIOD.—The term 'qualified period' means the period which begins 3 months prior to the date on which the sale of qualified securities occurs and which ends 12 months after the date of such sale.

"(4) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means any security (as defined in section 165(g)(2)) issued by a domestic corporation which does not, for the taxable year in which such stock is issued, have passive investment income (as defined in section 1362(d)(3)(D)) in excess of the limitation set forth in section 1375(a)(2).

"(5) STOCK ACQUIRED BY UNDERWRITER.—No acquisition of stock by an underwriter in the ordinary course of his trade or business as

an underwriter, whether or not guaranteed, shall be treated as a purchase for purposes of subsection (a).

"(c) BASIS OF QUALIFIED REPLACEMENT PROPERTY.—The basis of the taxpayer in qualified replacement property purchased by the taxpayer during the qualified period shall be reduced by the amount of gain not recognized solely by reason of the application of subsection (a). If more than one item of qualified replacement property is purchased, the amount of reduction applicable to any item of such property shall be determined by multiplying the total gain not recognized by reason of subsection (a) by a fraction the numerator of which is the cost of such item of property and the denominator of which is the total cost of all such items of property.

"(d) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any qualified securities and there is in effect an election under subsection (a) with respect to such gain, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain 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 by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing qualified replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase qualified replacement property within the qualified period, or

"(C) a failure to make such purchase within the qualified period, 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.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following:

"(13) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1041(b)) the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1041(b)), there shall be included the period for which such qualified securities had been held by the taxpayer.".

(2) Subsection (a) of section 1016 (relating to adjustments to basis), as amended by this Act, is amended—

(A) by striking out "and" at the end of paragraph (25),

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(27) in the case of qualified replacement property, the acquisition of which resulted under section 1041 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1041(c).".

(3) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1041. Sales of Stock to Employees.".

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

SEC. 102. DEDUCTIBILITY OF CERTAIN DIVIDEND DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.

(a) DEDUCTION.—Section 404 (relating to deductions for employer contributions to an employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) DIVIDENDS PAID DEDUCTIONS.—In addition to the deductions provided under subsection (a), there shall be allowed as a deduction to an employer the amount of any dividend paid in cash by that employer (or any member of the controlled group as described in section 409A(l)(4)) during the taxable year with respect to the stock of the employer if—

"(1) such stock is held on the record date for the dividend by a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)), and

"(2) in accordance with the plan provisions—

"(A) the dividend is paid in cash to the participants in the plan, or

"(B) the dividend is paid to the plan and is either—

"(i) distributed in cash to participants in the plan not later than 60 days after the close of the plan year in which paid, or

"(ii) applied by the plan to the repayment of a loan (as described in section 404(a)(10)) incurred for the purpose of acquiring stock of the employer.".

(b) DENIAL OF PARTIAL EXCLUSION.—Section 116 (relating to partial exclusion of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Subsection (a) shall not apply to any dividend described in section 404(k).".

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

SEC. 103. EXCLUSION OF INTEREST ON LOANS USED TO FINANCE ACQUISITION OF EMPLOYER SECURITIES BY AN ESOP.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items excluded from gross income) is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

"SEC. 132. INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

"(a) IN GENERAL.—Gross income does not include 50 percent of the interest received by a bank (within the meaning of section 581), an insurance company to which subchapter L applies, or a corporation actively engaged in the business of lending money on a securities acquisition loan.

"(b) SECURITIES ACQUISITION LOAN.—For purposes of this section, the term 'securities acquisition loan' means a loan the proceeds of which are used by an employee stock ownership plan (within the meaning of section 4975(e)(7)) to acquire employer securities (within the meaning of section 409A(l)) for the plan.".

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 132 and inserting in lieu thereof the following:

"Sec. 132. Interest on certain loans used to acquire employer securities.

"Sec. 133. Cross references to other Acts.".

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

SEC. 104. REDUCTION IN CAPITAL GAINS TAX WITH RESPECT TO SALES OF STOCK IN CORPORATIONS WITH EMPLOYEE OWNERSHIP.

(a) REDUCTION IN AMOUNT OF NET CAPITAL GAIN INCLUDED IN INCOME OF INDIVIDUALS.—Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 80 percent of the qualified corporate gain of the taxpayer for such taxable year, plus

"(2) 60 percent of the excess (if any) of—

"(A) such net capital gain, over

"(B) the qualified corporate gain of the taxpayer for such taxable year.".

(b) REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX RATE FOR CORPORATIONS.—Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended—

(1) by striking out "plus" at the end of paragraph (1), and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a tax of 10 percent of the qualified corporate gain of the taxpayer for the taxable year, plus

"(3) a tax of 28 percent of the excess (if any) of—

"(A) such net capital gain, over

"(B) the qualified corporate gain of the taxpayer for the taxable year.".

(c) DEFINITIONS AND SPECIAL RULES.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1203. DEFINITIONS AND SPECIAL RULES RELATING TO QUALIFIED CORPORATE GAIN.

"(a) QUALIFIED CORPORATE GAIN.—For purposes of this part, the term 'qualified corporate gain' means the net capital gain of the taxpayer for the taxable year resulting from the sale or exchange of qualified securities of employee-owned corporations.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SECURITIES.—The term 'qualified securities' means any shares of stock acquired by the taxpayer as part of the original issue of such securities which have been held by the taxpayer for at least 3 years.

"(2) EMPLOYEE-OWNED CORPORATION.—The term 'employee-owned corporation' means any domestic corporation—

"(A) not less than 50 percent of the total value of shares of all classes of stock of which is owned by, or on behalf of, qualified employees of such corporation, and

"(B) not less than 50 percent of the qualified employees of which own not less than 25 percent of such shares of stock.

"(3) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an employee of the corporation (other than the taxpayer) who is not an officer or a member of the board of directors of the corporation.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR DETERMINING WHETHER A CORPORATION IS AN EMPLOYEE-OWNED CORPORATION.—The determination of whether a corporation is an employee-owned corpora-

tion shall be made at the time the qualified corporate gain is realized after taking into account the sale or exchange described in subsection (a).

"(2) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a corporation which is a member of a controlled group, all members of such group at any time during the calendar year shall be treated as one corporation for such calendar year.

"(B) CONTROLLED GROUP DEFINED.—Persons shall be treated as members of a controlled group if such persons would be treated as a single employer under subsection (b) or (c) of section 414.

"(3) STOCK HELD BY QUALIFIED PLANS.—For purposes of subsection (b)(2)(A), all shares of stock of the employer held by an employees' trust described in section 401(a) which is maintained by a corporation shall be considered as owned by qualified employees of the corporation.

"(4) RELATED EMPLOYEES.—Any employees whose relationship to one another is described in section 267(b)(1) shall be treated as a single employee.".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 170 (relating to contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" in paragraph (1)(B) and inserting in lieu thereof "the applicable percentage", and

(B) by adding at the end thereof the following new paragraph:

"(5) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) in the case of a taxpayer other than a corporation—

"(i) whose charitable contribution consists of qualified securities of employee-owned corporations (within the meaning of section 1203), 20 percent, or

"(ii) whose charitable contribution consists of other property, 40 percent, or

"(B) in the case of a corporation—

"(i) whose charitable contribution consists of such qualified securities, 10/46, or

"(ii) whose charitable contribution consists of other property, 28/46.".

(2) The table of sections for part I of subchapter P of chapter 1 is amended by inserting after the item relating to section 1202 of the following new item:

"Sec. 1203. Definitions and special rules relating to qualified corporate gain.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges of qualified securities (within the meaning of section 1203 of the Internal Revenue Code of 1954) which are acquired by the taxpayer after the date of enactment of this Act in taxable years ending after such date.

SEC. 105. ASSUMPTION OF ESTATE TAX LIABILITY BY ESOP RECEIVING EMPLOYER SECURITIES.

(a) IN GENERAL.—Subchapter C of chapter 11 (relating to miscellaneous estate tax provisions) is amended by adding at the end thereof the following new section:

"SEC. 2210. LIABILITY FOR PAYMENT IN CASE OF TRANSFER OF EMPLOYER SECURITIES TO AN EMPLOYEE STOCK OWNERSHIP PLAN.

"(a) IN GENERAL.—If—

"(1) a qualified amount of employer securities—

"(A) are acquired by an employee stock ownership plan from the decedent,

"(B) pass from the decedent to such a plan, or

"(C) are transferred by the executor to such a plan, and

"(2) the executor elects the application of this section and files the agreements described in subsection (e) (in such manner as the Secretary shall by regulations prescribe) at the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof),

then the executor is relieved of liability for payment of that portion of the tax imposed by section 2001 which an employee stock ownership plan is required to pay under subsection (b).

"(b) PAYMENT OF TAX BY EMPLOYEE STOCK OWNERSHIP PLAN.—

"(1) IN GENERAL.—An employee stock ownership plan—

"(A) which has acquired a qualified amount of employer securities from the decedent, or to which such securities have passed from the decedent or been transferred by the executor, and

"(B) with respect to which an agreement described in subsection (e)(1) is in effect,

shall pay that portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent which is described in paragraph (2).

"(2) AMOUNT OF TAX TO BE PAID.—The portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent that is described in this paragraph is equal to the lesser of—

"(A) the excess of—

"(i) the tax imposed by section 2001 with respect to such taxable estate, over

"(ii) the tax imposed by section 2001 with respect to such taxable estate determined by excluding from the gross estate of the decedent employer securities conveyed under subsection (a)(1), or

"(B) the tax imposed by section 2001 with respect to such taxable estate reduced by the sum of the credits allowable against such tax.

"(c) INSTALLMENT PAYMENTS.—

"(1) IN GENERAL.—If—

"(A) the executor of the estate of the decedent (without regard to this section) may elect to have the provisions of section 6166 (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) apply to payment of that portion of the tax imposed by section 2001 with respect to such estate which is attributable to employer securities, and

"(B) the plan administrator provides to the executor the agreement described in subsection (e)(1),

then the plan administrator may elect, before the time prescribed by section 6075(a) for filing the return of such tax, to pay all or part of the tax described in subsection (b)(2) in installments under the provisions of section 6166.

"(2) INTEREST ON INSTALLMENTS.—In the case of a plan administrator who elects to pay all or a portion of the tax described in subsection (b)(2) in installments under section 6166, section 6601(j) shall be applied with respect to the entire amount of tax imposed by section 2001 with respect to the estate.

"(d) GUARANTEE OF PAYMENTS.—Any employer—

"(1) whose employees are covered by an employee stock ownership plan, and

"(2) who has entered into an agreement described in subsection (e)(2) which is in effect,

shall guarantee the payment of any amount such plan is required to pay under subsection (b), including any interest payable under section 6601 which is attributable to such amount.

"(e) AGREEMENTS.—The agreements described in this subsection are as follows:

"(1) A written agreement signed by the plan administrator consenting to the application of subsection (b) to the plan.

"(2) A written agreement signed by the employer whose employees are covered by the plan described in subsection (b) consenting to the application of subsection (d).

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED AMOUNT OF EMPLOYER SECURITIES.—The term 'qualified amount of employer securities' means an amount of employer securities the value of which equals or exceeds that portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent which is described in subsection (b)(2).

"(2) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409A(l).

"(3) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(4) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).".

(b) EXEMPTION FROM TAX ON PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 (relating to exemptions from the tax on prohibited transactions) is amended—

(1) by striking out "or" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof ", or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) any transaction in which employer securities are transferred to an employee stock ownership plan and the plan (or the employer on behalf of the plan) pays that portion of the decedent's estate tax described in section 2210(b)(2).".

(c) CONFORMING AMENDMENTS.—

(1) Section 2002 (relating to liability for payment of estate tax) is amended to read as follows:

"SEC. 2002. LIABILITY FOR PAYMENT.

"Except as provided in section 2210, the tax imposed by this chapter shall be paid by the executor.".

(2) The table of sections for subchapter C of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2210. Liability for payment in case of transfer of employer securities to an employee stock ownership plan.".

(3) Section 6018 (relating to estate tax returns) is amended by adding at the end thereof the following new subsection:

"(c) ELECTION UNDER SECTION 2210.—In all cases in which subsection (a) requires the filing of a return, if an executor elects the application of section 2210—

"(1) RETURN BY EXECUTOR.—The return which the executor is required to file under the provisions of subsection (a) shall be made with respect to that portion of estate tax imposed by subtitle B which the executor is required to pay.

"(2) RETURN BY PLAN ADMINISTRATOR.—The plan administrator (as defined in section 414(g)) shall make a return with respect to

that portion of the tax imposed by section 2001 which the employee stock ownership plan is required to pay under section 2210(b).".

(4) Subsection (j) of section 6166 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(6) PAYMENT OF ESTATE TAX BY EMPLOYEE STOCK OWNERSHIP PLAN.—For provision allowing plan administrator to elect to pay a certain portion of the estate tax in installments under the provisions of this section, see section 2210(c).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act.

SEC. 106. DEDUCTION FROM TAXABLE ESTATE OF HALF THE PROCEEDS FROM SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR CERTAIN WORKER-OWNED COOPERATIVES.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) IN GENERAL.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the aggregate amount of the qualified proceeds from the sale of employer securities to a tax credit employee stock ownership plan (as defined in section 409A) or to an employee stock ownership plan (as defined in section 4975(e)(7)), or to an eligible worker-owned cooperative which are realized by the decedent at any time before the date on which the return of the tax imposed by section 2001 is required to be filed (including any extensions) disregarding any portion of the proceeds from the sale of employer securities under this subsection to the extent that such securities are allocated under the plan for the benefit of—

"(1) the taxpayer or decedent,

"(2) any person related to the taxpayer or decedent under the provisions of section 267(b)(1), or

"(3) any other person who owns more than 25 percent in value of any class of outstanding employer securities under the provisions of section 318(a).

"(b) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given to such term by section 409A(l).

"(2) QUALIFIED PROCEEDS.—The term 'qualified proceeds' means the proceeds from the sale of employer securities as described in subsection (a), provided such securities were not received by the taxpayer in a distribution from a plan described in section 401(a) or as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given such term by section 1041(b)(2).".

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Sales of employer securities to employee stock ownership plans or worker-owned cooperatives.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act.

SEC. 107. CERTAIN CONTRIBUTIONS TO ESOP TREATED AS CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (c) of section 170 (defining charitable contribution) is amended by inserting after paragraph (5) the following new paragraph:

"(6) A tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)) but only if—

"(A) such contribution or gift consists exclusively of employer securities (within the meaning of section 409A(l));

"(B) such contribution or gift is allocated (over a period not in excess of three plan years), pursuant to the terms of such plan, to the employees participating under the plan in a manner consistent with section 401(a)(4);

"(C) no part of such contribution or gift is allocated under the plan for the benefit of—

"(i) the donor,

"(ii) any person who is a member of the family of the donor (within the meaning of section 267(c)(4)), or

"(iii) any other person who owns more than 25 percent in value of any class of outstanding employer securities under the provisions of section 318(a);

"(D) such contribution or gift is made only pursuant to the provisions of such tax credit employee stock ownership plan or such employee stock ownership plan;

"(E) such plan treats such employer securities as being attributable to employer contributions;

"(F) no deduction under section 404 and no credit under section 38 or 44G is allowed with respect to such contribution or gift;

"(G) any allocation under the plan of such contribution or gift which is based on compensation of the participants does not take into account any portion of the compensation of a participant that exceeds $100,000 per year.".

(b) PERCENTAGE LIMITATIONS.—Subparagraph (A) of section 170(b)(1) (relating to percentage limitations for individuals) is amended—

(1) by striking out "or" at the end of clause (vii),

(2) by inserting "or" at the end of clause (viii), and

(3) by inserting after clause (viii) the following new clause:

"(ix) a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)),".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 2055 (relating to transfers for public, religious, and charitable uses) is amended—

(A) by striking out "or" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) to a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)) but only if the requirements of section 170(c)(6) are met.".

(2) Subsection (a) of section 2522 (relating to charitable and similar gifts) is amended—

(A) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(B) by adding at the end thereof the following new paragraph:

"(5) a tax credit employee stock ownership plan (as defined in section 409A) or an employee stock ownership plan (as defined in section 4975(e)(7)) but only if the requirements of section 170(c)(6) are met.".

(3) Section 415 (relating to limitations on benefits and contributions under qualified plans), as amended by this Act, is amended by adding at the end thereof the following new subsection:

"(m) CHARITABLE CONTRIBUTIONS.—The limitations provided under this section shall not apply with respect to any contribution or gift described in section 170(c)(6) if the requirements of section 170(c)(6) are met.".

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

SEC. 108. EXCISE TAX ON CERTAIN DISPOSITIONS AND ALLOCATIONS OF EMPLOYER SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension plans) is amended by adding at the end thereof the following new section:

"SEC. 4977. TAX ON CERTAIN DISPOSITIONS AND ALLOCATIONS BY EMPLOYEE STOCK OWNERSHIP PLANS AND CERTAIN COOPERATIVES.

"(a) DISPOSITIONS OF SECURITIES BEFORE CLOSE OF MINIMUM HOLDING PERIOD.—

"(1) SECURITIES ACQUIRED IN SALE TO WHICH SECTION 1041 APPLIES.—

"(A) IMPOSITION OF TAX.—There is hereby imposed a tax on the disposition by any employee stock ownership plan or eligible worker-owned cooperative of any qualified securities which were acquired by such plan or cooperative in a sale with respect to which the application of section 1041 was elected if such disposition occurs during the 84-month period which begins on the date of such sale.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) is 10 percent of the gain from the sale described in subparagraph (A) of qualified securities to the employee stock ownership plan or eligible worker-owned cooperative.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this subsection shall be paid by the employee stock ownership plan or the eligible worker-owned cooperative, as the case may be.

"(3) NO APPLICATION TO CERTAIN DISPOSITIONS.—This subsection shall not apply with respect to any disposition of qualified securities which is made by reason of—

"(A) the death, disability, or separation from service of the employee,

"(B) a transfer of the employee to the employment of an acquiring corporation from the employment of the selling corporation in the case of a sale to the acquiring corporation of substantially all of the assets used by the selling corporation in a trade or business conducted by the selling corporation, or

"(C) the disposition of a selling corporation's interest in a subsidiary when the participant continues employment with such subsidiary.

"(b) IMPROPER ALLOCATIONS OR ACCRUAL OF BENEFITS.—

"(1) SECURITIES ACQUIRED IN SALE TO WHICH SECTION 1041 APPLIES.—

"(A) IMPOSITION OF TAX.—There is hereby imposed a tax on the allocation of, or accrual of benefit with respect to, more than 25 percent of the fair market value of qualified securities described in subsection (a)(1) (determined at the time of sale) to—

"(i) the person who sold such securities to the employee stock ownership plan or eligible worker-owned cooperative,

"(ii) any person who is a member of the family (within the meaning of section 267(c)(4)) of the person described in clause (i), or

"(iii) any person who owns (under the rules of section 318(a)) more than 25 percent of the value of any class of outstanding employer securities.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) is 10 percent of the gain from the sale described in subparagraph (A) of qualified securities to the employee stock ownership plan or eligible worker-owned cooperative.

"(2) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this subsection shall be paid by the employee stock ownership plan or the eligible worker-owned cooperative, as the case may be.

"(c) FAILURE TO MAINTAIN STATUS AS AN EMPLOYEE-OWNED CORPORATION.—

"(1) IMPOSITION OF TAX.—If—

"(A) any gain from the sale or exchange of stock of a corporation is qualified corporate gain (within the meaning of section 1203), and

"(B) such corporation ceases to be an employee-owned corporation at any time during the 2-year period beginning on the date of such sale or exchange,

there is hereby imposed a tax on such cessation of status as an employee-owned corporation in an amount equal to 10 percent of the gain from such sale or exchange.

"(2) LIABILITY FOR PAYMENT OF TAX.—The tax imposed by paragraph (1) shall be paid by the corporation described in paragraph (1).

"(3) CERTIFICATION OF STATUS AS AN EMPLOYEE-OWNED CORPORATION.—

"(A) FAILURE TO CERTIFY TREATED AS CESSATION.—If a corporation fails to meet the requirements of subparagraph (B), such corporation shall, for purposes of this subsection, be treated as having ceased to be an employee-owned corporation on the date such failure occurs.

"(B) CERTIFICATION REQUIREMENT.—If any gain from the sale or exchange of stock of a corporation is qualified corporate gain (within the meaning of section 1203), such corporation shall certify that such corporation is an employee-owned corporation on each return of the tax imposed by chapter 1 which is required to be filed (not including any extensions) during the 2-year period which begins on the date of such sale or exchange.

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

"(1) EMPLOYEE STOCK OWNERSHIP PLAN.—

"(A) IN GENERAL.—The term 'employee stock ownership plan' has the meaning given to such term by section 4975(e)(7).

"(B) TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS.—The term 'employee stock ownership plan' includes any tax credit employee stock ownership plan (within the meaning of section 409A).

"(2) QUALIFIED SECURITIES.—The term 'qualified securities' has the meaning given to such term by section 1041(b)(1).

"(3) EMPLOYEE-OWNED CORPORATION.—The term 'employee-owned corporation' has the meaning given to such term by section 1203(b)(2).

"(4) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given to such term by section 1041(b)(1).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4977. Tax on certain dispositions and allocations by employee stock ownership plans and certain cooperatives.".

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

PART V—MISCELLANEOUS

SEC. 111. ELIMINATION OF RETROACTIVE APPLICATION OF AMENDMENTS MADE BY MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.

(a) IN GENERAL.—

(1) LIABILITY.—Any withdrawal liability incurred by an employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.) as a result of the complete or partial withdrawal of such employer from a multiemployer plan before September 26, 1980, shall be void.

(2) REFUNDS.—Any amounts paid by an employer to a plan sponsor as a result of such withdrawal liability shall be refunded by the plan sponsor to the employer, less a reasonable amount for administrative expenses incurred by the plan sponsor in calculating, assessing, and refunding such amounts.

(b) CONFORMING AMENDMENTS.—

(1) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) Sections 4211(b) and (c), 4217(a), and 4235(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1391(b) and (c), 1397(a), and 1415(a)) are amended by striking out "April 28, 1980" each place it appears and inserting in lieu thereof "September 25, 1980".

(B) Sections 4211 (b) and (c), 4217(a), 4219(c)(1)(C)(iii), and 4402(e) of such Act (29 U.S.C. 1391 (b) and (c), 1397(a), 1399(c)(1)(C)(iii), and 1461(e)) are amended by striking out "April 29, 1980" each place it appears and inserting in lieu thereof "September 26, 1980".

(C) Section 4402(f)(1) of such Act (29 U.S.C. 1461(f)(1)) is amended by striking out "April 29, 1985" and inserting in lieu thereof "September 26, 1985".

(2) MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.—Section 108(d) of the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C. 1385 note) is amended—

(A) by striking out "April 29, 1982" in paragraph (1) and inserting in lieu thereof "September 26, 1982"; and

(B) by striking out "April 29, 1980" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "September 26, 1980".

(c) NO INCREASE IN LIABILITY.—The amendments made by this section shall not be construed to increase the liability incurred by any employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.), as in effect immediately before the amendments made by subsection (b), as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980.

(d) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS.—In the case of an employer who, on September 26, 1980, has a binding agreement to withdraw from a multiemployer plan, subsection (a)(1) shall be applied by substituting "December 31, 1980" for "September 26, 1980".

SEC. 112. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A QUALIFIED TERMINATED PLAN.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1954, if—

(1) a distribution was made from a qualified terminated plan to an employee on December 16, 1976, and on January 6, 1977, such employee transferred all of the property received in such distribution to an individual retirement account (within the meaning of section 408(a) of such Code) established for the benefit of such employee, and

(2) the remaining balance to the credit of such employee in such qualified terminated plan was distributed to such employee on January 21, 1977, and all the property received by such employee in such distribution was transferred by such employee to such individual retirement account on January 21, 1977,

then such distributions shall be treated as qualifying rollover distributions (within the meaning of section 402(a)(5)(D) of such Code) and shall not be includable in the gross income of such employee for the taxable year in which paid.

(b) QUALIFIED TERMINATED PLAN.—For purposes of this section, the term "qualified terminated plan" means a pension plan—

(1) with respect to which a notice of sufficiency was issued by the Pension Benefit Guaranty Corporation on December 2, 1976, and

(2) which was terminated by corporate action on February 20, 1976.

(c) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of enactment of this Act. Sections 6511(B) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

SEC. 113. PARTIAL TERMINATION FOR CERTAIN PENSION PLANS.

For purposes of section 411(d)(3) of the Internal Revenue Code of 1954 (relating to minimum vesting standards in the case of partial terminations), a partial termination shall not be treated as occurring if—

(1) the partial termination is a result of a decline in plan participation which—

(A) occurs by reason of the completion of the Trans-Alaska Oil Pipeline construction project, and

(B) occurred after December 31, 1975, and before January 1, 1980, with respect to participants employed in Alaska,

(2) no discrimination prohibited by section 401(a)(4) of such Code occurred with respect to such partial termination, and

(3) the plan precludes reversion of plan assets to employers under the plan as a

result of the exclusion of the participants from further participation in such plan.

SEC. 114. DISTRIBUTION REQUIREMENTS FOR ACCOUNTS AND ANNUITIES OF AN INSURER IN A TITLE 11 PROCEEDING.

For purposes of section 408(a)(6) and section 408(b)(3) of the Internal Revenue Code of 1954, a grantor of an individual retirement account or an individual retirement annuity shall not be treated as failing to meet the requirements of such sections with respect to such account or annuity if such account or annuity was issued by an insurance company which, on March 15, 1984, was a party to a title 11 or similar case (within the meaning of section 368(a)(3)(A) of such Code). The preceding sentence shall only apply during the period such insurance company continues to be a party to the proceeding described in such sentence.

SEC. 115. EXTENSION OF TIME FOR REPAYMENT OF QUALIFIED REFUNDING LOANS.

Paragraph (2) of section 236(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR NON-KEY EMPLOYEES.—In the case of a non-key employee (within the meaning of section 416(i)(2) of the Internal Revenue Code of 1954), this paragraph shall be applied by substituting 'January 1, 1985' for 'August 14, 1983' each place it appears.".

SEC. 116. PENSION PORTABILITY INVOLVING TELECOMMUNICATIONS DIVESTITURE.

(a) IN GENERAL.—The recognition after December 31, 1983, of creditable service, and the treatement after such date of associated accrued benefits and assets, in the case of any transfer of any qualifying employee between any entity subject to the modified final judgment shall be governed by the provisions of the modified final judgment as such provisions applied during calendar year 1984 with respect to or from the divesting corporation and any divested exchange carrier.

(b) QUALIFYING EMPLOYEE.—A qualifying employee, for purposes of this subsection, is an individual who is an employee of an entity subject to the modified final judgment, who is serving in a covered position, and who, on December 31, 1983, was an employee of any such entity serving in a covered position.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "covered position" means any position which (A) is not a supervisor position, within the meaning of section 2(11) of the National Labor Relations Act (29 U.S.C. 152(11)) or (B) the annual base pay rate for which is not more than $50,000, adjusted by the percentage in the consumer price index since December 31, 1983;

(2) the term "modified final judgment" means the judgment of the United States District Court for the District of Columbia in the case, United States against Western Electric, et alia, numbered 82-0192, as modified;

(3) the term "entity subject to the modified final judgment" means any carrier divested as a result of such judgment, the corporation owning such carrier before divestiture, and any affiliate of any such carrier or corporation; and

(4) the term "consumer price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) LIMITATION ON BENEFITS.—Nothing in this subsection shall be construed to limit benefits which would otherwise be provided under the modified final judgment or under applicable law.".

(e) COORDINATION WITH SECTION 415.—For purposes of computing any limit on contributions and benefits with respect to a qualified employee who was an employee of a party to the modified final judgment on December 31, 1983, under section 415 of the Internal Revenue Code of 1954, there shall be taken into account all contributions and benefits with respect to the qualified employee under a plan maintained by the divesting corporation and any divested exchange carrier.

Subtitle J—Foreign Provisions

PART I—GENERAL

SEC. 121. TREATMENT OF RELATED PERSON FACTORING INCOME.

(a) TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—

(1) IN GENERAL.—Subsection (a) of section 553 (defining foreign personal holding company income) is amended by adding at the end thereof the following new paragraph:

"(8) INCOME FROM TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED PERSONS.—

"(A) IN GENERAL.—Income from a trade or service receivable.

"(B) TRADE OR SERVICE RECEIVABLE.—For purposes of subparagraph (A), the term 'trade or service receivable' means any account receivable or evidence of indebtedness arising out of the disposition of property described in section 1221(1), or the performance of services, by a related person.

"(C) RELATED PERSON.—For purposes of this paragraph, the term 'related person' has the meaning given to such term by section 267(b).".

(2) EXCEPTION FOR TRADE OR SERVICE RECEIVABLES OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (A) of section 954(c)(4) (relating to certain income received from related persons) is amended by inserting before the semicolon at the end thereof the following: "or income from a trade or service receivable (as defined in section 553(a)(8)(B)) acquired directly from such a related person".

(b) TREATMENT OF UNITED STATES PROPERTY.—Subsection (b) of section 956 (defining United States property) is amended by adding at the end thereof the following new paragraph:

"(3) TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED UNITED STATES PERSONS.—

"(A) Notwithstanding paragraph (1) or (2), except as provided in subparagraph (B), the term 'United States property' includes any trade or service receivable (as defined in section 553(a)(8)(B)) acquired directly or indirectly from a related person (within the meaning of section 954(d)(3)) who is a United States person.

"(B) EXCEPTION FOR CERTAIN EXPORT RECEIVABLES.—Subparagraph (A) shall not apply to any trade or service receivables which arise out of the disposition or rental of export property (within the meaning of section 993(c)), the income from which would be treated as qualified export receipts under subparagraph (A) or (B) of section 993(a)(1) (without regard to whether the taxpayer is a DISC). The preceding sentence shall not apply to any receivables arising out of any transaction involving a DISC or FSC (without regard to whether the export property disposed or rented is held by the DISC or FSC).".

(c) SOURCE RULE.—Section 861 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(g) INCOME FROM TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED UNITED STATES PERSONS.—

"(1) IN GENERAL.—For purposes of subsection (a) and section 862(a)—

"(A) income from a trade or service receivable acquired directly or indirectly from a related United States person shall be treated as income from sources within the United States, and

"(B) any distribution from a foreign corporation (and any amount included in gross income under section 951) to the extent attributable to income described in subparagraph (A) shall be treated as income from sources within the United States.

"(2) SPECIAL RULE FOR CERTAIN EXPORT RECEIVABLES.—In the case of any trade or service receivable described in section 956(b)(3)(B), paragraph (1) shall be applied by inserting '50 percent of' before 'income' the first place it appears in subparagraph (A).

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

"(A) TRADE OR SERVICE RECEIVABLE.—The term 'trade or service receivable' has the meaning given to such term by section 553(a)(8)(B).

"(B) RELATED UNITED STATES PERSON.—The term 'related United States person' means any related person (within the meaning of section 954(d)(3)) who is a United States person.".

(d) SPECIAL RULE FOR POSSESSIONS.—

(1) PUERTO RICO.—Subsection (d) of section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR TRADE OR SERVICE RECEIVABLE.—Any income from a trade or service receivable (as defined in section 553(a)(8)(B)) shall not be treated as income described in subparagraph (A) or (B) of paragraph (1).".

(2) VIRGIN ISLANDS.—Section 934(b) (relating to exception for certain corporations) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any income from any trade or service receivable (as defined in section 553(a)(8)(B)) shall not be treated as income derived from sources within the Virgin Islands.".

(e) FOREIGN BASE COMPANY INCOME.—Section 954(b)(3)(A) (relating to special rule for foreign base company income) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, income from any trade or service receivable (as defined in section 553(a)(8)(B)) shall be treated as foreign base company income.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to accounts receivable and evidences of indebtedness transferred after March 1, 1984 in taxable years ending after such date.

SEC. 122. TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subsection (a) of section 367 (relating to transfers of property from the United States) is amended to read as follows:

"(a) TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

"(1) GENERAL RULE.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for pur-

poses of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.

"(2) EXCEPTION FOR CERTAIN STOCK OR SECURITIES.—Except to the extent provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to the transfer of stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization.

"(3) EXCEPTION FOR TRANSFERS OF CERTAIN PROPERTY USED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to any property transferred to a foreign corporation for use by such foreign corporation in the active conduct of a trade or business outside of the United States.

"(B) PARAGRAPH NOT TO APPLY TO CERTAIN PROPERTY.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to any—

"(i) property described in paragraph (1) or (3) of section 1221 (relating to inventory and copyrights, etc.) to which subsection (d) does not apply,

"(ii) installment obligation, accounts receivable, or similar property,

"(iii) foreign currency or other property denominated in foreign currency,

"(iv) intangible property (within the meaning of section 936(h)(3)(B)) to which subsection (d) does not apply, or

"(v) property with respect to which the transferor is a lessor at the time of the transfer, except that this clause shall not apply if the transferee was the lessee.

"(C) TRANSFER OF FOREIGN BRANCH WITH PREVIOUSLY DEDUCTED LOSSES.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to gain realized on the transfer of the assets of a foreign branch of a United States person to a foreign corporation in an exchange described in paragraph (1) to the extent that—

"(i) the sum of losses—

"(I) which were incurred by the foreign branch before the transfer, and

"(II) with respect to which a deduction was allowed to the taxpayer, exceeds

"(ii) the amount which is recognized under section 904(f)(3) on account of such exchange.

Any gain to which subparagraph (A) does not apply by reason of the preceding sentence shall be treated for purposes of this chapter as ordinary income from sources outside the United States.

"(4) SPECIAL RULE FOR TRANSFER OF PARTNERSHIP INTERESTS.—Except as provided in regulations prescribed by the Secretary, a transfer by a United States person of an interest in a partnership to a foreign corporation in an exchange described in paragraph (1) shall, for purposes of this subsection, be treated as a transfer to such corporation of such person's pro rata share of the assets of the partnership.

"(5) SECRETARY MAY EXEMPT CERTAIN TRANSACTIONS FROM APPLICATION OF THIS SUBSECTION.—Paragraph (1) shall not apply to the transfer of any property which the Secretary, in order to carry out the purposes of this subsection, designates by regulation.".

(b) SPECIAL RULES FOR TRANSFERS OF INTANGIBLES.—Subsection (d) of section 367 (relating to special rule for transfer of intangibles by possession corporations) is amended to read as follows:

"(d) SPECIAL RULES RELATING TO TRANSFERS OF INTANGIBLES.—

"(1) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if a United States person tranfers any intangible property (within the meaning of section 936(h)(3)(B)) to a foreign corporation in an exchange described in section 351 or 361—

"(A) subsection (a) shall not apply to the transfer of such property, and

"(B) the provisions of this subsection shall apply to such transfer.

"(2) TRANSFER OF INTANGIBLES TREATED AS TRANSFER PURSUANT TO SALE FOR CONTINGENT PAYMENTS.—

"(A) IN GENERAL.—If paragraph (1) applies to any transfer, the United States person transferring such property shall be treated as—

"(i) having sold such property in exchange for payments which are contingent upon the productivity, use, or disposition of such property, and

"(ii) receiving over the useful life of such property amounts which reasonably reflect the amounts which would have been received—

"(I) annually in the form of such payments, or

"(II) or in the case of a disposition following such transfer (whether direct or indirect), at the time of the disposition.

"(B) EFFECT ON EARNINGS AND PROFITS.—For purposes of this chapter, the earnings and profits of a foreign corporation to which the intangible property was transferred shall be reduced by the amount of income required to be included in income under subparagraph (A).

"(C) AMOUNTS RECEIVED TREATED AS UNITED STATES SOURCE ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsection shall be treated as ordinary income from sources within the United States.".

(c) SECRETARY MUST BE NOTIFIED OF TRANSACTIONS DESCRIBED IN SECTION 367(a).—

(1) NOTIFICATION REQUIREMENT.—Subpart A of part III of subchapter A of chapter 61 is amended by adding after section 6038A the following new section:

"SEC. 6038B. NOTICE OF TRANSFERS DESCRIBED IN SECTION 367(a).

"(a) IN GENERAL.—Each United States person who transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361 shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange as the Secretary may require in such regulations.

"(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 25 percent of the amount of gain realized on such exchange.

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect."

(2) EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTION WHERE SECRETARY NOT NOTIFIED.—Subsection (c) of section 6501 (relating to exceptions to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(8) FAILURE TO NOTIFY SECRETARY UNDER SECTION 6038B.—In the case of any tax imposed on any exchange by reason of section 367(a), the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange under section 6038B(a)."

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding after the item relating to section 6038A the following new item:

"Sec. 6038B. Notice of transfers described in section 367(a).".

(d) REPEAL OF DECLARATORY JUDGMENT PROVISIONS INVOLVING TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

(1) IN GENERAL.—Section 7477 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out subparagraph (D) and by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(B) The table of sections for part IV of subchapter C of chapter 76 is amended by striking out the item relating to section 7477.

(e) TRANSFERS TO AVOID INCOME TAX.—

(1) IN GENERAL.—Section 1492 (relating to nontaxable transfers) is amended—

(A) by striking out paragraphs (2) and (3) and by inserting in lieu thereof—

"(2) To a transfer—

"(A) described in section 367, or

"(B) not described in section 367 but with respect to which the taxpayer establishes to the satisfaction of the Secretary that no gain should be recognized under principles similar to the principles of section 367.", and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Section 1494(b) (relating to abatement or refund) is amended by striking out all that follows "that" and inserting in lieu thereof "no gain should be recognized on such transfer under principles similar to the principles of section 367".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers or exchanges after December 31, 1984, in taxable years ending after such date.

(2) RULING REQUESTS BEFORE MARCH 1, 1984.—The amendments made by this section shall not apply to any transfer or exchange after December 31, 1984, made pursuant to a request filed under section 367(a) of the Internal Revenue Code of 1954 (as in effect before such amendments) before March 1, 1984.

SEC. 123. SECTION 1248 TO APPLY TO CERTAIN INDIRECT TRANSFERS OF STOCK IN A FOREIGN CORPORATION.

(a) GENERAL RULE.—Section 1248 (relating to gain from certain sales or exchanges of stock in foreign corporations) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN INDIRECT TRANSFERS.—

"(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, for purposes of this section, the stock of the foreign corporation received in such exchange shall be treated as if it 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 of his stock.

"(2) 10-PERCENT CORPORATE SHAREHOLDER DEFINED.—For purposes of this subsection, the term '10-percent corporate shareholder' means any domestic corporation which, as of the day before the exchange referred to in paragraph (1), satisfies the stock ownership requirements of subsection (a)(2) with respect to the foreign corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to exchanges after the date of the enactment of this Act in taxable years ending after such date.

SEC. 124. TREATMENT OF UNITED STATES SOURCE ORIGINAL ISSUE DISCOUNT IN CASE OF FOREIGN PERSONS.

(a) NONRESIDENT ALIEN INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

"(C) in the case of—

"(i) a sale, exchange, or retirement of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this clause only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by subparagraph (A) thereon), and ".

(2) DEFINITIONS AND SPECIAL RULES.—Section 871, as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—For purposes of this section and section 881—

"(1) ORIGINAL ISSUE DISCOUNT OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original issue discount obligation' means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

"(B) EXCEPTIONS.—The term 'original issue discount obligation' shall not include—

"(i) CERTAIN SHORT-TERM OBLIGATIONS.—Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

"(ii) TAX-EXEMPT OBLIGATIONS.—Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

"(2) DETERMINATION OF PORTION OF ORIGINAL ISSUE DISCOUNT ACCRUING DURING ANY PERIOD.—The determination of the amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law).

"(3) SOURCE OF ORIGINAL ISSUE DISCOUNT.—Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment, sale, exchange, or retirement as if such payment, sale, exchange, or retirement involved the payment of interest.

"(4) STRIPPED BONDS.—The provisions of section 1286 (relating to the treatment of stripped bonds and stripped coupons as obligations with original issue discount) shall apply for purposes of this section.".

(b) FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 881(a) (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

"(3) in the case of—

"(A) a sale, exchange, or retirement of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

"(B) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and".

(2) CROSS REFERENCE.—Subsection (c) of section 881 (relating to doubling of tax) is amended to read as follows:

"(c) CROSS REFERENCES.—

"For doubling of tax on corporations of certain foreign countries, see section 891.

"For special rules for original issue discount, see section 871(h).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the payments, sales, exchanges, or retirement made on or after the 60th day after the date of the enactment of this Act with respect to obligations issued after March 31, 1972.

SEC. 125. TREATMENT OF CERTAIN TRANSPORTATION INCOME.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsection:

"(c) SOURCE RULE FOR CERTAIN TRANSPORTATION INCOME.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, all transportation income attributable to transportation which begins and ends in the United States (or in any possession of the United States) shall be treated as derived from sources within the United States.

"(2) TRANSPORTATION INCOME.—For purposes of this subsection, the term 'transportation income' means any income derived from, or in connection with—

"(A) the use (or hiring or leasing for use) of a vessel or aircraft, or

"(B) the performance of services directly related to the use of a vessel or aircraft.

For purposes of the preceding sentence, the term 'vessel or aircraft' includes any container used in connection with a vessel or aircraft.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 126. APPLICATION OF COLLAPSIBLE CORPORATION RULES TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subsection (f) of section 341 (relating to collapsible corporations) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR FOREIGN CORPORATIONS.—To the extent provided in regulations prescribed by the Secretary—

"(A) any consent given by a foreign corporation under paragraph (1) shall not be effective, and

"(B) paragraph (3) shall not apply if the transferee is a foreign corporation.".

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

SEC. 127. DEFINITION OF FOREIGN INVESTMENT COMPANY.

(a) GENERAL RULE.—Paragraph (2) of section 1246(b) (defining foreign investment company) is amended to read as follows:

"(2) engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in—

"(A) securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) commodities, or

"(C) any interest (including a futures or forward contract or option) in property described in subparagraph (A) or (B),

at a time when 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or the total value of all classes of stock, was held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to sales and exchanges (and distributions) on or after October 31, 1983, in taxable years ending on or after such date.

(2) STOCK HELD ON OCTOBER 31, 1983.—In the case of a sale or exchange (or distribution) not later than the date which is 1 year after the date of the enactment of this Act, the amendment made by subsection (a) shall not apply with respect to stock held by the taxpayer continuously from October 31, 1983, to the date of such sale or exchange (or distribution).

SEC. 128. DISTRIBUTIONS AND INTEREST PAYMENTS BY CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS TREATED AS DERIVED FROM UNITED STATES SOURCES FOR PURPOSES OF LIMITATION ON FOREIGN TAX CREDIT.

(a) IN GENERAL.—Section 904 (relating to limitation on foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) DISTRIBUTIONS AND INTEREST PAYMENTS BY CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS TREATED AS DERIVED FROM UNITED STATES SOURCES.—

"(1) IN GENERAL.—For purposes of this section, the United States-connected percentage of any distribution or interest payment made by a United States-owned foreign corporation shall be treated as derived from sources within the United States.

"(2) UNITED STATES-CONNECTED PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'United States-connected percentage' means, with respect

to any distribution or interest payment made by any foreign corporation during any taxable year, the percentage of the gross income of such corporation for the base period which is—

"(i) derived from sources within the United States, or

"(ii) effectively connected with the conduct of a trade or business within the United States.

"(B) EXCEPTION WHERE UNITED STATES-CONNECTED PERCENTAGE LESS THAN 10 PERCENT.—The United States-connected percentage shall be zero in any case in which the percentage determined under subparagraph (A) is less than 10 percent.

"(C) BASE PERIOD.—The term 'base period' has the meaning given such term by section 904(d)(3)(C)(ii).

"(D) DISTRIBUTIONS THROUGH OTHER ENTITIES.—The Secretary shall prescribe regulations for the application of this paragraph in cases of distributions or payments made through 1 or more entities.

"(3) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'United States-owned foreign corporation' means any foreign corporation if 50 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).

"(4) DISTRIBUTION.—For purposes of this subsection, the term 'distribution' includes any amount required to be included in income under section 951.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsection (a) shall apply to distributions and interest payments made by a United States-owned foreign corporation after the date of the enactment of this Act, in taxable years of such cororation ending after such date, to the extent attributable to income received or accrued by such corporation after such date.

(2) SPECIAL RULE FOR APPLICABLE CFC.—

(A) IN GENERAL.—In the case of qualified interest received or accrued by an applicable CFC before January 1, 1992—

(i) such interest shall not be treated as income described in clause (i) or (ii) of section 904(h)(2)(A) of the Internal Revenue Code of 1954 (as added by subsection (a)) for purposes of computing the United States-connected percentage, except that

(ii) clause (i) shall not apply for purposes of applying section 904(h)(2)(B) of such Code (relating to exception where United States-connected percentage is less than 10 percent).

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the term "qualified interest" means—

(i) the aggregate amount of interest received or accrued during any taxable year by an applicable CFC on United States affiliate obligations held by such applicable CFC, multiplied by,

(ii) a fraction (not in excess of 1)—

(I) the numerator of which is the sum of the aggregate principal amount of United States affiliate obligations held by the applicable CFC on March 31, 1984, but not in excess of the applicable limit, and

(II) the denominator of which is the average daily balance of United States affiliate obligations held by such applicable CFC during the taxable year.

(C) ADJUSTMENT FOR RETIREMENT OF CFC OBLIGATIONS.—The amount described in subparagraph (B)(ii)(I) for any taxable year shall be reduced by the sum of—

(i) the excess of (I) the aggregate principal amount of CFC obligations which are outstanding on March 31, 1984, but only with respect to obligations issued before March 8, 1984, or issued after March 7, 1984, by the applicable CFC pursuant to a binding commitment in effect on March 7, 1984, over (II) the average daily outstanding principal amount during the taxable year of the CFC obligations described in subclause (I), and

(ii) the portion of the equity of such applicable CFC allocable to the excess described in clause (i) (determined on the basis of the debt-equity ratio of such applicable CFC on March 31, 1984).

(D) APPLICABLE CFC.—For purposes of this paragraph, the term "applicable CFC" means any controlled foreign corporation (within the meaning of section 957)—

(i) which was in existence on March 31, 1984, and

(ii) substantially all the activities of which consist of the issuing of CFC obligations and lending the proceeds from the issuance of such bonds to affiliates.

(E) UNITED STATES AFFILIATE.—For purposes of this paragraph—

(i) IN GENERAL.—The term "United States affiliate" means any United States person which is an affiliate of the applicable CFC.

(ii) AFFILIATE.—The term 'affiliate' means any person who is a related person (within the meaning of section 482 of the Internal Revenue Code of 1954) to the applicable CFC.

(F) UNITED STATES AFFILIATE OBLIGATIONS.—For purposes of this paragraph, the term "United States affiliate obligations" means any obligation of (and payable by) a United States affiliate.

(G) CFC OBLIGATION.—For purposes of this paragraph, the term "CFC obligation" means any obligation of (and issued by) a CFC and which is described in section 163(f)(2)(B) of the Internal Revenue Code of 1954 (without regard to clause (ii)(II) thereof).

(H) TREATMENT OF OBLIGATIONS WITH ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, in the case of any obligation with original issue discount, the issue price of such obligation shall be treated as its principal amount.

(I) APPLICABLE LIMIT.—For purposes of subparagraph (B)(ii)(I), the term "applicable limit" means the sum of—

(i) the equity of the applicable CFC on March 31, 1984, and

(ii) the aggregate principal amount of CFC obligations outstanding on March 31, 1984, which were issued by an applicable CFC—

(I) before March 8, 1984, or

(II) after March 7, 1984, pursuant to a binding commitment in effect on March 7, 1984.

(3) SPECIAL RULE FOR CERTAIN OBLIGATIONS HELD ON MARCH 17, 1984, BY CORPORATIONS OTHER THAN APPLICABLE CFC.—In the case of any foreign corporation which is not an applicable CFC (as defined in paragraph (2)), the amendments made by subsection (a) shall not apply to interest on any term obligation held by such corporation on March 7, 1984.

(4) DEFINITIONS.—Any term used in this subsection which is also used in section 904(h) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall have the meaning given such term by such section 904(h).

SEC. 129. CERTAIN DISTRIBUTIONS TREATED AS INTEREST FOR PURPOSES OF LIMITATION ON THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsection (d) of section 904 (relating to limitation on foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN DISTRIBUTIONS BY CORPORATIONS TREATED AS INTEREST.—

"(A) IN GENERAL.—Any distribution made by a corporation to which this paragraph applies out of that portion of the earnings and profits of such corporation which is attributable to interest described in paragraph (2) (including amounts treated as interest described in paragraph (2) by reason of this paragraph) shall be treated for purposes of this subsection as interest income described in paragraph (2).

"(B) CORPORATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any United States-owned foreign corporation (within the meaning of subsection (h)(3)), and

"(ii) any regulated investment company.

"(C) EXCEPTION FOR DISTRIBUTIONS BY CORPORATIONS HAVING SMALL PERCENTAGES OF INTEREST INCOME.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any distribution made by a corporation during a taxable year if less than 10 percent of the earnings and profits of such corporation for the base period with respect to such taxable year is attributable to interest income described in paragraph (2) (including amounts treated as interest described in paragraph (2) by reason of this paragraph).

"(ii) BASE PERIOD.—For purposes of clause (i), the term 'base period' means, with respect to any taxable year—

"(I) the period of 3 taxable years preceding such taxable year,

"(II) if a corporation has not been in existence during such 3-taxable year period, so much of such period as the corporation is in existence, or

"(III) if such taxable year is the first taxable year of existence, such taxable year.

"(D) DISTRIBUTION.—For purposes of this paragraph, the term 'distribution' includes any amount required to be included in income under section 951.

"(E) DISTRIBUTIONS THROUGH OTHER ENTITIES.—The Secretary shall prescribe regulations for the application of this paragraph in cases of distributions made through 1 or more entities.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions by a corporation to which section 904(d)(3) of the Internal Revenue Code of 1954 (as added by this section) applies which are made after the date of the enactment of this Act, in taxable years of such corporation ending after such date, to the extent attributable to interest income received or accrued by such corporation in taxable years beginning after such date.

(2) TERM OBLIGATIONS OF FOREIGN CORPORATIONS WHICH ARE NOT APPLICABLE CFC.—The amendment made by subsection (a) shall not apply to any distribution by a corporation to which section 904(d)(3) of the Internal Revenue Code of 1954 applies and which is not an applicable CFC (as defined in section 128(c)(2)) to the extent such distribu-

tion is attributable to interest on any term obligation held by such corporation on March 7, 1984.

(3) BASE PERIOD.—For purposes of computing any base period under section 904(d)(3)(C)(ii) of the Internal Revenue Code of 1954 (as added by this section) for purposes of applying the amendments made by this section, a corporation shall not be treated as being in existence for any taxable year beginning before the date of the enactment of this Act.

SEC. 130. TREATMENT OF CERTAIN DISTRIBUTIONS AND INTEREST RECEIVED BY UNITED STATES-OWNED FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 535 (defining accumulated taxable income) is amended by adding at the end thereof the following new subsection:

"(d) UNITED STATES INCOME RETAINS SOURCE EVEN THOUGH DISTRIBUTED TO UNITED STATES OWNED FOREIGN CORPORATION.—

"(1) IN GENERAL.—For purposes of this part, if more than 10 percent of the earnings and profits of any foreign corporation for any taxable year—

"(A) is derived from sources within the United States, or

"(B) is effectively connected with the conduct of a trade or business within the United States,

any distribution out of such earnings and profits (and any interest payment) received (directly or through 1 or more other entities) by a United States-owned foreign corporation out of such earnings and profits shall be treated as derived by such corporation from sources within the United States.

"(2) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of paragraph (1), the term 'United States-owned foreign corporation' has the meaning given such term by section 904(h).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to distributions and interest received by a United States-owned foreign corporation on or after May 23, 1983, in taxable years ending on or after such date.

(2) CORPORATIONS IN EXISTENCE ON MAY 23, 1983.—In the case of a United States-owned foreign corporation in existence on May 23, 1983, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(3) DEFINITIONS.—For purposes of this subsection, the terms "distribution" and "United States-owned foreign corporation" have the respective meanings given such terms by section 904(h) of the Internal Revenue Code of 1954.

SEC. 131. AMENDMENTS RELATED TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) ATTRIBUTION FROM FAMILY MEMBERS AND PARTNERSHIPS.—Section 554 (relating to stock ownership) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES FOR APPLICATION OF SUBSECTION (A)(2).—For purposes of the stock ownership requirement provided in section 552(a)(2)—

"(1) stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through family membership as owned by a citizen or by a resident alien individual who is not the spouse of the nonresident individual, and

"(2) stock of a corporation owned by any foreign person shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in such corporation (determined after application of subsection (a) and paragraph (1), other than attribution through partners).".

(b) INCLUSION IN INCOME OF UNITED STATES PERSONS HOLDING INTEREST THROUGH FOREIGN ENTITY.—Section 551 (relating to foreign personal holding company income taxed to United States shareholders) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) STOCK HELD THROUGH FOREIGN ENTITY.—For purposes of this section, stock of a foreign personal holding company owned (directly or through the application of this subsection) by—

"(1) a partnership, estate, or trust which is not a United States shareholder, or

"(2) a foreign corporation which is not a foreign personal holding company,

shall be considered as being owned proportionately by its partners, beneficiaries, or shareholders. In any case to which the preceding sentence applies, the Secretary may by regulations provide for such adjustments in the application of this part as may be necessary to carry out the purposes of the preceding sentence.".

(c) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN INTO ACCOUNT FOR FOREIGN PERSONAL HOLDING COMPANY DETERMINATION.—

(1) IN GENERAL.—Paragraph (1) of section 553(a) (defining foreign personal holding income) is amended by inserting ", other than dividends and interest described in section 954(c)(4)(A)" after "annuities".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 552(a) (defining foreign personal holding company) is amended by striking out "; and" at the end thereof and inserting in lieu thereof a period and "For purposes of this paragraph, there shall not be included in gross income dividends and interest described in section 954(c)(4)(A).".

(d) COORDINATION OF SUBPART F WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—Subsection (d) of section 951 (relating to coordination with foreign personal holding company provisions) is amended to read as follows:

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholder), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after March 15, 1984.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable years of United States shareholders beginning after the date of the enactment of this Act.

PART II—FOREIGN INSURANCE

SEC. 135. PROVISIONS RELATING TO AMOUNT AND WITHHOLDING OF EXCISE TAXES ON POLICIES ISSUED BY FOREIGN INSURERS.

(a) UNIFORM RATE OF TAX ON INSURANCE AND REINSURANCE POLICIES.—Section 4371 (relating to excise tax on policies issued by foreign insurers) is amended to read as follows:

"SEC. 4371. IMPOSITION OF TAX.

"(a) IN GENERAL.—If any foreign insurer or reinsurer issues a policy of insurance, indemnity bond, annuity contract, or policy of reinsurance, there is hereby imposed on such policy, bond, contract, or policy of reinsurance a tax equal to—

"(1) in the case of—

"(A) a policy of casualty insurance or an indemnity bond which is issued to or for, or in the name of, an insured (within the meaning of section 4372(d)), or

"(B) a policy of reinsurance covering any such contract or bond,

4 percent of the amount of the premium retained by the foreign insurer or reinsurer on such policy, or bond, or on such policy of reinsurance; and

"(2) in the case of—

"(A) a policy of life, sickness, or accident insurance or an annuity contract, or

"(B) a policy of reinsurance covering any such policy or contract,

1 percent of the amount of the premium retained by the foreign issuer or reinsurer on such policy or contract, or on such policy of reinsurance.

No tax shall be imposed under paragraph (2) on any policy or contract with respect to which the insurer is subject to tax under section 819.

"(b) AMOUNT OF PREMIUM RETAINED.—For purposes of subsection (a), the term 'amount of the premium retained' means, with respect to any policy, bond, or contract described in subsection (a), the excess of—

"(1) the gross premium (and other consideration) received by a foreign insurer, over

"(2) the premiums (and other consideration) paid by such insurer with respect to reinsurance ceded with respect to such policy, bond, or contract.".

(b) LIABILITY FOR TAX.—Section 4374 (relating to liability for tax) is amended—

(1) by striking out "or for whose use or benefit the same are made, signed, issued, or sold", and

(2) by striking out the last sentence.

(c) WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.—

(1) IN GENERAL.—Chapter 34 (relating to policies issued by foreign insurers) is amended by adding at the end thereof the following new section:

"SEC. 4375. WITHHOLDING OF EXCISE TAX ON FOREIGN INSURERS.

"(a) IN GENERAL.—In any case in which—

"(1) a foreign insurer issues a contract to which this section applies, or

"(2) a foreign reinsurer issues a policy of reinsurance covering any contract to which this section applies,

the insured or any withholding agent shall deduct and withhold from the gross premium (and other consideration) paid an amount equal to the amount determined under subsection (b).

"(b) AMOUNT TO BE WITHHELD.—The amount to be deducted and withheld under subsection (a) shall be equal to—

"(1) in the case of any contract described in subsection (d)(1)(A) or any policy of rein-

surance subsequently issued with respect to the risks covered by such contract, 4 percent of the gross premium (and other consideration) paid,

"(2) in the case of any contract described in subsection (d)(1)(B) or any policy of reinsurance subsequently issued with respect to the risks covered by such contract, 1 percent of the gross premium (and other consideration) paid.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to any contract or policy of reinsurance—

"(1) the premium on which is exempt from tax under section 4373, or

"(2) with respect to which the Secretary by regulations provides for an exemption from the requirement to deduct and withhold under subsection (a).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTRACT TO WHICH THIS SECTION APPLIES.—This section shall apply to any contract which—

"(A) is a policy of casualty insurance or an indemnity bond with respect to an insured, or

"(B) any policy of life, sickness, or accident insurance or an annuity contract (within the meaning of section 4372(e)) with respect to which the issuer is not subject to tax under section 819.

"(2) INSURED.—The term 'insured' has the meaning given such term by section 4372(d).

"(3) WITHHOLDING AGENT.—Except as provided in regulations prescribed by the Secretary, the term 'withholding agent' means, with respect to any premium paid by an insured to a foreign insurer or reinsurer (or to any nonresident agent, solicitor, or broker), the person who controls, receives, has custody of, disposes of, or pays such premium.

"(4) PROCEDURAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of subchapter C of chapter 3 shall apply to any amount required to be deducted and withheld under this subsection.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 34 is amended by adding at the end thereof the following new item:

"Sec. 4375. Withholding on excise tax on foreign insurers.".

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

SEC. 136. SERVICES RELATING TO INSURANCE POLICIES ARE TREATED AS PERFORMED IN COUNTRY OF RISK.

(a) IN GENERAL.—Subsection (e) of section 954 (defining foreign base company services income) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 267(b)) shall be treated as having been performed in the country within which the insured hazards, risks, losses, or liabilities occur, and except as provided in regulations prescribed by the Secretary, rules similar to the rules of section 953(e) shall be applied in determining the income from such services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years of controlled foreign corporations beginning after the date of the enactment of this Act.

PART III—WITHHOLDING OF CERTAIN FOREIGN TAXES

SEC. 141. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS BY CERTAIN FOREIGN PERSONS REQUIRED.

(a) WITHHOLDING OF TAX.—

(1) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any acquisition of a United States real property interest (as defined in section 897(c)) from a foreign person, the transferee, any transferee's agent, or any settlement officer shall be required to deduct and withhold a tax equal to whichever of the following is the smallest:

"(1)(A) in the case of a corporate transferor, 28 percent of the amount realized on the disposition, or (B) in the case of a transferor who is an individual, partnership, estate, or trust, 20 percent of the amount realized on the disposition,

"(2) the portion of the transferee's consideration (as defined in subsection (h)(4)) which is at any time within the withholding agent's custody or control, or

"(3) if there is a transferor's maximum tax liability (as defined in subsection (h)(5)), the amount of such liability.

"(b) TRANSFEREE OR SETTLEMENT OFFICER MUST KNOW OR HAVE NOTICE THAT TRANSFEROR WAS A FOREIGN PERSON.—

"(1) IN GENERAL.—The transferee, any transferee's agent, or any settlement officer shall not be required to deduct and withhold a tax under subsection (a) with respect to any acquisition unless the transferee, transferee's agent, or the settlement officer—

"(A) knows that the transferor is a foreign person, or

"(B) has received a notice provided for in subsection (c).

"(2) TIME FOR APPLYING PARAGRAPH (1).—Paragraph (1) shall be applied immediately before each payment of the consideration with respect to the acquisition of the United States real property interest.

"(c) REQUIREMENTS TO FURNISH NOTICE.—

"(1) TRANSFEROR MUST FURNISH NOTICE TO TRANSFEREE AND TO SETTLEMENT OFFICER.—If the transferor is a foreign person, he shall so notify the transferee, any agent of the transferee, and any settlement officer at such time or times and in such manner as may be prescribed by regulations.

"(2) TRANSFEROR'S AGENT.—

"(A) IN GENERAL.—

"(i) TRANSFEROR'S AGENT TO FURNISH NOTICE.—If any transferor's agent has at any time before the time specified in subsection (b)(2) reason to believe that the transferor may be a foreign person, he shall so notify the transferee, any transferee's agent, and any settlement officer at such time or times and in such manner as may be prescribed by regulations.

"(ii) REQUIREMENT OF REASONABLE INQUIRY.—For purposes of this subsection, a transferor's agent who fails to make reasonable inquiry into whether the transferor is a foreign person shall be treated as having reason to believe that the transferor may be a foreign person.

"(iii) TRANSFEROR'S AGENT MAY RELY IN GOOD FAITH ON TRANSFEROR'S WRITTEN STATEMENT.—A transferor's agent will not be treated as having reason to believe that a transferor may be a foreign person if the transferor's agent relies in good faith on a written statement of the transferor (or, in the case of a transferor's agent retained by another agent of the transferor, a written statement by such other transferor's agent) that the transferor is a United States person.

"(B) ONLY 1 NOTICE TO EACH PERSON.—Under regulations, the requirements of paragraph (1) and of subparagraph (A) of this paragraph shall be treated as met with respect to the transferee, any transferee's agent, and any settlement officer if at least 1 notice which meets the requirements of paragraph (1) or such subparagraph (A) is furnished to such transferee, transferee's agent, and settlement officer.

"(C) TRANSFEROR'S AGENT.—Except as provided in subparagraph (D), for purposes of this subsection, the term 'transferor's agent' means any person who represents the transferor (or another agent of the transferor)—

"(i) in any negotiation with the transferee or any transferee's agent relating to the transaction, or

"(ii) in settling the transaction.

A person will be considered to represent the transferor (or another agent of the transferor) if such person retains another person to represent the transferor (or such other agent) in any negotiations with the transferee or transferee's agent relating to the transaction or in settling the transaction.

"(D) SETTLEMENT OFFICER NOT TREATED AS TRANSFEROR'S AGENT.—For purposes of this paragraph, a person shall not be treated as a transferor's agent with respect to any transaction merely because such person performs 1 or more of the following acts:

"(i) the receipt and the disbursement of any portion of the consideration for the transaction, or

"(ii) the recording of any document in connection with the transaction.

"(3) FAILURE TO FURNISH NOTICE.—

"(A) DUTY TO WITHHOLD.—If any transferor's agent—

"(i) is required by paragraph (2) to furnish notice, but

"(ii) fails to notify the transferee and the transferee's agent and the settlement officer at such time or times and in such manner as may be prescribed by regulations,

such agent shall have the same duty to deduct and withhold (with respect to the transferee's consideration within the transferor's agent's custody and control) that the transferee would have if the transferor's agent had complied with paragraph (2).

"(B) TREATMENT OF COMPENSATION.—In any case to which subparagraph (A) applies, the transferee's consideration shall be treated as including the compensation received by the transferor's agent in connection with the transaction.

"(d) EXEMPTIONS.—

"(1) IN GENERAL.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a transaction if paragraph (2), (3), or (4) applies to the transaction.

"(2) TRANSFEROR FURNISHES QUALIFYING STATEMENT.—

"(A) IN GENERAL.—This paragraph applies to the transaction if the transferor (at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe) furnishes a qualifying statement to the person who (but for

this paragraph) would be required to withhold.

"(B) QUALIFYING STATEMENT.—For purposes of subparagraph (A), the term 'qualifying statement' means a statement by the Secretary that—

"(i) the transferor either—

"(I) has reached agreement with the Secretary for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) or any gain recognized by the transferor on the disposition of the United States real property interest, or

"(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of United States real property interest, and

"(ii) the transferor has satisfied any transferor's unsatisfied withholding liability or has provided adequate security to cover such liability.

"(3) PRINCIPAL RESIDENCE WHERE AMOUNT REALIZED IS NOT MORE THAN $200,000.—This paragraph applies to the transaction if—

"(A) the amount realized by the transferor does not exceed $200,000, and

"(B) the property is acquired by the transferee for use as his principal residence.

"(4) STOCK TRANSFERRED ON ESTABLISHED SECURITIES MARKET.—This paragraph applies to a disposition of stock in a corporation if the transaction takes place on an established United States securities market.

"(e) ADJUSTMENTS IN AMOUNT REQUIRED TO BE WITHHELD.—

"(1) CANNOT EXCEED TRANSFEROR'S MAXIMUM TAX LIABILITY.—

"(A) REQUEST.—At the request of the transferor or of any withholding agent, the Secretary shall establish, with respect to any disposition, the transferor's maximum tax liability.

"(B) LIMIT ON WITHHOLDING REQUIREMENT.—The amount required to be withheld under subsection (a) with respect to any disposition shall not exceed the amount (if any) established with respect to such disposition under subparagraph (A).

"(2) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT.—At the request of the transferor or of any withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by this section or section 871(b)(1) or 882(a)(1).

"(3) PROCEDURAL RULES.—

"(A) REGULATIONS.—Requests for—

"(i) qualifying statements under subsection (d)(2),

"(ii) determinations of transferor's maximum tax liability under paragraph (1) of this subsection, and

"(iii) reductions under paragraph (2) of this subsection in the amount required to be withheld,

shall be made at the time and manner, and shall include such information, as the Secretary shall prescribe in regulations.

"(B) REQUESTS TO BE HANDLED WITHIN 30 DAYS.—The Secretary shall take action with respect to any request described in subparagraph (A) within 30 days after the Secretary receives the request.

"(f) RULES RELATING TO CERTAIN PARTNERSHIPS, TRUSTS, AND ESTATES.—Pursuant to such terms and conditions as may be provided by regulations, a domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required under subsection (a) to deduct and withhold tax from amounts of which such partnership, trustee, or executor has custody which are—

"(1) attributable to the disposition of a United States real property interest (as defined in section 897(c)(1)), and

"(2) either—

"(A) includible in the distributive share of a partner of the partnership who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate;

"(B) includible in the income of a beneficiary of the trust or estate who is a nonresident alien individual or a foreign corporation, partnership, trust, or estate; or

"(C) includible in the income of a nonresident alien individual, foreign corporation, partnership, trust, or estate under the provisions of section 671.

"(g) WITHHOLDING TO BE REQUIRED FOR DISTRIBUTIONS BY FOREIGN CORPORATIONS IN THE CASE OF CERTAIN OTHER TRANSACTIONS.—Except as otherwise provided in this section, in the case of any transaction involving a United States real property interest on which gain is recognized under section 897 (d) or (e), a corporation shall be required to deduct and withhold under subsection (a) a tax equal to 28 percent of an amount equal to the fair market value of such interest (as of the time of the transaction) reduced by its adjusted basis.

"(h) DEFINITIONS.—For purposes of this section—

"(1) TRANSFEROR.—The term 'transferor' means the person disposing of the United States real property interest.

"(2) TRANSFEREE.—The term 'transferee' means the person acquiring the United States real property interest.

"(3) SETTLEMENT OFFICER.—The term 'settlement officer' means the person who, in connection with the settlement, receives and disburses any portion of the consideration for the transaction.

"(4) TRANSFEREE'S CONSIDERATION.—

"(A) IN GENERAL.—The term 'transferee's consideration' means the cash and the fair market value of the other property which is consideration in connection with the transaction.

"(B) INDEBTEDNESS.—Except to the extent provided in regulations, if—

"(i) the transferee assumes indebtedness of the transferor or indebtedness to which the property is subject, or the transferee acquires the property subject to an indebtedness, and

"(ii) such indebtedness was incurred within 2 years of the transaction,

then, for purposes of applying subsection (a)(2) with respect to the transferee, the transferee's consideration shall include the amount of such indebtedness and the amount of such indebtedness shall be deemed to be within the withholding agent's custody or control.

"(5) TRANSFEROR'S MAXIMUM TAX LIABILITY.—The term 'transferor's maximum tax liability' means, with respect to the disposition of any interest, the maximum amount which the Secretary determines the transferor could owe—

"(A) as tax under section 871(b)(1) or 882(a)(1) by reason of such disposition, plus

"(B) the transferor's unsatisfied withholding liability with respect to such interest.

"(6) TRANSFEROR'S UNSATISFIED WITHHOLDING LIABILITY.—The term 'transferor's unsatisfied withholding liability' means the withholding obligation imposed under this section on the transferor's acquisition of the United States real property interest or on the acquisition of a predecessor interest, to the extent such obligation has not been satisfied.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding of tax on dispositions of United States real property interests.".

(b) DISCRETION TO CURTAIL REPORTING WHERE WITHHOLDING REQUIRED.—Subsection (e)(2) of section 6039C (relating to returns with respect to United States real property interests) is amended to read as follows:

"(2) RETURNS, ETC.—

"(A) GENERAL RULE.—All returns, statements, and information required to be made or furnished under this section shall be made or furnished at such time and in such manner as the Secretary shall by regulations prescribe.

"(B) CASES IN WHICH WITHHOLDING IS REQUIRED.—Except when required by the Secretary, the returns, statements, and information otherwise required to be made or furnished under this section shall not be required if a transferee, a transferee's agent, or any other person is required under section 1444 to deduct and withhold tax on the acquisition of the property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any payment of consideration with respect to the acquisition of a United States real property interest made more than 30 days after the date of the enactment of this Act.

SEC. 142. REPEAL OF THE 30 PERCENT TAX ON INTEREST RECEIVED BY FOREIGNERS ON CERTAIN PORTFOLIO INVESTMENTS.

(a) REPEAL OF TAX ON NONRESIDENT INDIVIDUALS.—

(1) IN GENERAL.—Section 871 (relating to 30 percent tax on income not connected with United States business), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by adding at the end thereof the following new subsection:

"(h) PHASE-OUT OF TAX ON INTEREST OF NONRESIDENT ALIEN INDIVIDUALS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

"(1) IN GENERAL.—In the case of any portfolio interest received by a nonresident individual from sources within the United States, paragraph (1)(A) of subsection (a) shall be applied by substituting the applicable percentage for '30 percent'.

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of portfolio interest received:	The applicable percentage is:
After the date of enactment of this subsection and before January 1, 1985	5
During 1985	5
During 1986	3
During 1987	2
After December 31, 1987 and before July 1, 1988	
After June 30, 1988	0

"(3) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which is described in any of the following subparagraphs:

"(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which—

"(i) is not in registered form, and

"(ii) is described in section 163(f)(2)(B).

"(B) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

"(i) which is in registered form, and

"(ii) with respect to which the United States person who is, or would otherwise be, required to deduct and withhold tax from such interest under section 1441(a) has received a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person.

"(C) CERTAIN ASSUMED OBLIGATIONS.—Interest which is paid on an obligation which resulted from the assumption after the date of enactment of this subsection by a domestic corporation of an obligation—

"(i) which was issued on or before such date,

"(ii) which was guaranteed by a domestic corporation at the time of its issuance,

"(iii) which was issued pursuant to arrangements described in section 163(f)((2)(B)(i), and

"(iv) with respect to which the domestic corporation meets, under regulations prescribed by the Secretary, reporting and similar requirements of this title which would be imposed on the person from whom such obligation was assumed.

"(4) PORTFOLIO INTEREST NOT TO INCLUDE INTEREST RECEIVED BY 10-PERCENT SHAREHOLDERS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'portfolio interest' shall not include any interest described in subparagraph (A) or (B) of paragraph (2) which is received by a 10-percent shareholder.

"(B) 10 PERCENT SHAREHOLDER.—The term '10-percent shareholder' means—

"(i) in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

"(C) ATTRIBUTION RULES.—For purposes of determining ownership of stock under subparagraph (B)(i), the rules of section 318(a) shall apply, except that—

"(i) section 318(a)(2)(C) shall be applied without regard to the 50-percent limitation therein, and

"(ii) any stock which a person is treated as owning after application of section 318(a)(4) shall not, for purposes of applying paragraphs (2) and (3) of section 318(a), be treated as actually owned by such person.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall be applied in determining the ownership of the capital or profits interest in a partnership for purposes of subparagraph (B)(ii).

"(5) CERTAIN STATEMENTS.—A statement with respect to any obligation meets the requirements of this paragraph if such statement is made by—

"(A) the beneficial owner of such obligation, or

"(B) a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business.

The preceding sentence shall not apply to any statement with respect to payment of interest on any obligation by any person if, at least one month before such payment, the Secretary has published a determination that any statement from such person (or any class including such person) does not meet the requirements of this paragraph.

"(6) SECRETARY MAY PROVIDE SUBSECTION NOT TO APPLY IN CASES OF INADEQUATE INFORMATION EXCHANGE.—

"(A) IN GENERAL.—If the Secretary determines that the exchange of information between the United States and a foreign country is inadequate to prevent evasion of the United States income tax by United States persons, the Secretary may provide in writing (and publish a statement) that the provisions of this subsection shall not apply to payments of interest to any person within such foreign country (or payments addressed to, or for the account of, persons within such foreign country) during the period—

"(i) beginning on the date specified by the Secretary, and

"(ii) ending on the date that the Secretary determines that the exchange of information between the United States and the foreign country is adequate to prevent the evasion of United States income tax by United States persons.

"(B) EXCEPTION FOR CERTAIN OBLIGATIONS.—Subparagraph (A) shall not apply to the payment of interest on any obligation which is issued on or before the date of the publication of the Secretary's determination under such subparagraph.

"(7) REGISTERED FORM.—For purposes of this subsection, the term 'registered form' has the same meaning given such term by section 163(f).".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 871(a) (relating to tax on income other than capital gains) is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (g), there".

(b) FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 881 (relating to tax on income of foreign corporations not connected with United States business), as amended by this Act, is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) PHASE-OUT OF TAX ON INTEREST OF FOREIGN CORPORATIONS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

"(1) IN GENERAL.—In the case of any portfolio interest received by a foreign corporation from sources within the United States, paragraph (1) of subsection (a) shall be applied by substituting the applicable percentage (within the meaning of section 871(g)(2)) for '30 percent'.

"(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which is described in any of the following subparagraphs:

"(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which is described in section 871(g)(3)(A).

"(B) CERTAIN ASSUMED OBLIGATIONS.—Interest which is paid on an obligation which is described in section 871(g)(3)(C).

"(C) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

"(i) which is in registered form, and

"(ii) with respect to which the person who is, or would otherwise be, required to deduct and withhold tax from such interest under section 1442(a) has received a statement which meets the requirements of section 871(g)(5) that the beneficial owner of the obligation is not a United States person.

"(3) PORTFOLIO INTEREST SHALL NOT INCLUDE INTEREST RECEIVED BY CERTAIN PERSONS.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest described in subparagraph (A) or (C) of paragraph (2) which—

"(A) is received by a controlled foreign corporation (within the meaning of section 957(a)),

"(B) except in the case of interest paid on an obligation of the United States, is received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business, or

"(C) is received by a 10-percent shareholder (within the meaning of section 871(g)(4)(B)).

"(4) SECRETARY MAY CEASE APPLICATION OF THIS SUBSECTION.—Under rules similar to the rules of section 871(g)(6), the Secretary may provide that this subsection shall not apply to payments of interest described in section 871(g)(6).

"(5) REGISTERED FORM.—For purposes of this subsection, the term 'registered form' has the meaning given such term by section 163(f).".

(2) CONFORMING AMENDMENTS.—Subsection (a) of section 881 (relating to imposition of tax) is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (c), there".

(c) AMENDMENT OF SECTION 864(c)(2).—Paragraph (2) of section 864(c) (relating to effectively connected income, etc.) is amended by striking out "section 871(a)(1) or section 881(a)" and inserting in lieu thereof "section 871(a)(1), section 871(g), section 881(a), or section 881(c)".

(d) AMENDMENT OF SECTION 2105.—Subsection (b) of section 2105 (relating to property without the United States) is amended to read as follows:

"(b) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.—For purposes of this subchapter—

"(1) amounts described in section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States were such interest received by the decedent at the time of his death,

"(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business, and

"(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(g)(5) has been received, any interest thereon would be eligible for the phase-out of tax under section 871(g)(1) were such interest received by the decedent at the time of his death,

shall not be deemed property within the United States.".

(e) WITHHOLDING.—

(1) NONRESIDENT ALIENS.—Subsection (c) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new paragraph:

"(9) INTEREST INCOME FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—In the case of portfolio interest (within the meaning of 871(g)(3), the amount of tax required to be deducted and withheld from such interest shall be reduced as provided in section 871(g)(1) unless the person required to deduct and withhold tax from such interest knows, or has reason to know, that such in-

terest is not portfolio interest by reason of section 871(g)(4).".

(2) FOREIGN CORPORATIONS.—The last sentence of section 1442(a) is amended—

(A) by striking out "and" after "section 881(a)(4),", and

(B) by inserting ", and the references in section 1441(c)(9) to section 871(g)(1) and 871(g)(4) shall be treated as referring to sections 881(c)(1) and 881(c)(3)".

(f) EFFECTIVE DATES.—

(1) The amendments made by this section (other than subsection (d)) shall apply to portfolio interest received after the date of the enactment of this Act, in taxable years ending after such date.

(2) The amendment made by subsection (d) shall apply to the estates of decedents dying after the date of enactment of this section.

SUBTITLE K—REPORTING, PENALTY, AND OTHER PROVISIONS

SEC. 145. ORGANIZERS AND SELLERS OF INVESTMENT PLANS, ETC., MUST KEEP LISTS OF INVESTORS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6111 as section 6112 and by inserting after section 6110 the following new section:

"SEC. 6111. ORGANIZERS AND SELLERS OF INVESTMENT PLANS, ETC. MUST KEEP LISTS OF INVESTORS.

"(a) IN GENERAL.—Any person—

"(1) who—

"(A) organizes, or engages in the operation of, any entity, investment plan or arrangement, or other plan or arrangement described in section 6700(a)(1)(A), or

"(B) sells any interest in an entity, investment plan, or arrangement described in subparagraph (A), and

"(2) who makes or furnishes (in connection with such organization or sale) a statement with respect to—

"(A) the allowance of any deduction or credit,

"(B) the exclusion of any income, or

"(C) the securing of any other tax benefit, by reason of holding an interest in the entity or participating in the plan or arrangement,

shall maintain a list of each person who was sold an interest in such entity, plan, or arrangement.

"(b) FORM OF LIST.—Any list required under subsection (a)—

"(1) shall be maintained separately for each entity, plan, or arrangement, and

"(2) shall include—

"(A) the name, address, and TIN of each person to whom an interest in the entity, plan, or arrangement was sold, and

"(B) such other information as the Secretary may by regulations prescribe.

"(c) SPECIAL RULES.—

"(1) EXCEPTIONS.—Subsection (a) shall not apply to—

"(A) any organization of, or sale of an interest in, a partnership or S corporation, or

"(B) any person whom the Secretary determines is otherwise required to maintain the information described in subsection (b)(2).

"(2) AVAILABILITY FOR INSPECTION; RETENTION OF INFORMATION ON LIST.—Any person who is required to maintain a list under subsection (a)—

"(A) shall make such list available for inspection upon request by the Secretary, and

"(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

"(3) LISTS WHICH WOULD BE REQUIRED TO BE MAINTAINED BY 2 OR MORE PERSONS.—The Secretary shall prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list, the maintenance of such list by one of such persons shall be treated as the maintenance of such list by the other person.".

(b) PENALTY FOR FAILURE TO MAINTAIN LIST.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. FAILURE TO MAINTAIN LISTS OF INVESTORS.

"(a) IN GENERAL.—Any person who is required to maintain a list under section 6111 with respect to any person who was sold an interest in an entity, plan, or arrangement described in section 6111(a)(1) shall pay a penalty of $50 for a failure to include such person on such list, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed $50,000.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6111 and inserting in lieu thereof the following new items:

"Sec. 6111. Organizers and sellers of investment plans, etc. must keep lists of investors.

"Sec. 6112. Cross reference.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Failure to maintain lists of investors.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales and organizations made after December 31, 1984.

SEC. 146. REGISTRATION OF TAX SHELTERS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6112 as section 6113 and by inserting after section 6111 the following new section:

"SEC. 6112. REGISTRATION OF TAX SHELTERS.

"(a) REGISTRATION.—

"(1) IN GENERAL.—Any person who organizes a tax shelter shall register such tax shelter with the Secretary (in such form and in such manner as the Secretary may prescribe) by the earlier of—

"(A) the day which is 15 days after the date such tax shelter is first offered for sale, or

"(B) December 31 of the calendar year in which such tax shelter is first offered for sale.

"(2) INFORMATION INCLUDED IN REGISTRATION.—Any person registering a tax shelter under subsection (a) shall provide the Secretary with—

"(A) information identifying and describing the tax shelter,

"(B) information describing the potential tax benefits of the tax shelter to investors, and

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

"(b) FURNISHING OF TAX SHELTER IDENTIFICATION NUMBER.—

"(1) PROMOTERS.—Any person who sells an interest in a tax shelter shall (at such times as the Secretary shall prescribe) furnish to each investor who purchases an interest in such tax shelter from such person the identification number assigned by the Secretary to such tax shelter. Such identification number shall be furnished by such person to such other persons under such other circumstances as the Secretary may prescribe by regulations.

"(2) INVESTORS.—Any investor in a tax shelter shall furnish the identification number assigned by the Secretary to such tax shelter to such persons under such circumstances as the Secretary may prescribe by regulations.

"(c) TAX SHELTER.—For purposes of this section.—

"(1) IN GENERAL.—The term 'tax shelter' means any investment—

"(A) with respect to which representations are made in connection with the offering of that investment that the investment will result, for any of the taxable years ending within the 5-year period that begins on the date the investment is made, in—

"(i) deductions in excess of the income attributable to the investment, or

"(ii) credits against tax in excess of 50 percent of the income attributable to the investment, and

"(B) which—

"(i) is required to be registered under a Federal or State law regulating securities, or

"(ii) is offered to sophisticated investors.

"(2) SOPHISTICATED INVESTORS.—An investment is offered to sophisticated investors if the aggregate amount invested exceeds $200,000 and such aggregate investment is made by 10 or more investors.

"(d) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments for purposes of applying subsection (c), and

"(2) exemptions from the requirements of this section.".

(b) PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING TAX SHELTERS.

"(a) FAILURE TO REGISTER TAX SHELTER.—

"(1) IMPOSITION OF PENALTY.—If a person who is required to register a tax shelter under section 6112(a)—

"(A) fails to register such tax shelter on or before the date described in section 6112(a)(1), or

"(B) files false or incomplete information with the Secretary with respect to such registration,

such person shall pay a penalty with respect to such registration.

"(2) AMOUNT OF PENALTY.—The penalty imposed under paragraph (1) with respect to any registration of a tax shelter shall be an amount equal to the sum of—

"(A) $500, plus

"(B) 1 percent of the portion of the aggregate amount invested in such tax shelter that exceeds $1,000,000.

"(b) FAILURE TO FURNISH TAX SHELTER IDENTIFICATION NUMBER.—

"(1) PROMOTERS.—Any person who fails to furnish the identification number of a tax shelter to a person who is required to be furnished with such number under section

6112(b)(1) shall pay a penalty of $100 for each such failure.

"(2) INVESTORS.—Any person who fails to furnish the identification number of a tax shelter which such person is required to furnish under section 6112(b)(2) shall pay a penalty of $50 for each of such failures, unless such failure is due to reasonable cause.".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6112 and inserting in lieu thereof the following new items:

"Sec. 6112. Registration of Tax Shelters.

"Sec. 6113. Cross references.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6707. Failure to furnish information regarding tax shelters.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1984, with respect to interests sold on or after such date. The Secretary may by regulations delay the date on which such amendments take effect.

SEC. 147. RETURNS RELATING TO CASH AND MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050H. RETURNS RELATING TO RECEIPT OF CASH OR MORTGAGE INTEREST IN TRADE OR BUSINESS.

"(a) CASH RECEIPTS OF $10,000 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives $10,000 or more in cash or foreign currency in 1 transaction (or 2 or more related transactions),

shall make the return described in subsection (c) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

"(b) MORTGAGE INTEREST OF $2,300 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any other person interest (including amounts treated as interest under section 483)—

"(A) on 1 or more obligations which are secured by the same real property, and

"(B) which is in excess of $2,300 for any calendar year,

shall make the return described in subsection (c) with respect to each person from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

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

"(2) contains—

"(A) the name, address, and TIN of the person from whom the cash or interest was received,

"(B) the amount of cash or interest received,

"(C) in the case of a return under subsection (a), the date and nature of the transaction, and

"(D) such other information as the Secretary may prescribe.

"(d) EXCEPTION WHERE CASH RECEIVED IS OTHERWISE REQUIRED TO BE REPORTED.—Subsection (a) shall not apply to any transaction which is required to be reported under subchapter II of chapter 53 of title 31, United States Code.

"(e) APPLICATIONS TO GOVERNMENTAL UNITS.—For purposes of subsection (b)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental entity or any agency or instrumentality thereof—

"(A) subsection (b) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (b) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(f) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) or (b) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of cash or interest received by the person making such 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) or (b) was made.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out "or" at the end of clause (iii),

(B) by inserting "or" at the end of clause (iv), and

(C) by inserting after clause (iv) the following new clause:

"(v) subsection (a) or (b) of section 6050H (relating to cash and mortgage interest received in trade or business),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by inserting "or subsection (a) or (b) of section 6050H" after "section 6041A(b)".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6052(b)" and inserting in lieu thereof "6052(b), or 6050H(f)", and

(B) by striking out "or 6052(a)" and inserting in lieu thereof "6052(a), or 6050H (a) or (b)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050H. Returns relating to receipt of cash as mortgage interest in trade or business.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1984.

SEC. 148. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other people) is amended by adding at the end thereof the following new section:

"SEC. 6050I. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

"(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

"(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness,

"(2) determines that property in which such person has a security interest has been abandoned, or

"(3) after, or in connection with, such acquisition or abandonment, is allowed a deduction under section 166 (or is allowed any addition to a reserve for bad debts) with respect to such indebtedness,

shall make a return described in subsection (b) with respect to each of such acquisitions, abandonments, or allowances of deduction (or addition to reserve) at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURN.—The return required under subsection (a) with respect to any acquisition or abandonment of property or allowance of deduction (or addition to reserve), as the case may be, shall—

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

"(2) contain—

"(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured or for which such deduction (or addition to reserve) was allowed,

"(B) a general description of the nature of such property and such indebtedness,

"(C) in the case of a return required under subsection (a)(1)—

"(i) the amount of such indebtedness at the time of such acquisition, and

"(ii) the manner in which such property was acquired,

"(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment,

"(E) in the case of a return required under subsection (a)(3), the amount of such deduction (or addition to reserve) allowed, and

"(F) such other information as the Secretary may prescribe.

"(c) APPLICATIONS TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—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 the name and address of the person required to make such 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) was made.

"(e) RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) FURNISHING OF INFORMATION.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) INCLUSION ON RETURN.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates.".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) (as amended by section 147 of this Act) is further amended—

(A) by striking out "or" at the end of clause (iv),

(B) by adding "or" at the end of clause (v), and

(C) by inserting after clause (v) the following new clause:

"(vi) section 6050I (relating to foreclosures),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out "or subsection (a) or (b) of section 6050H" and inserting in lieu thereof ", subsection (a) or (b) of section 6050H, or section 6050I".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050H(f)" and inserting in lieu thereof "6050H(f), or 6050I(d)", and

(B) by striking out "or 6050H (a) or (b)" and inserting in lieu thereof "6050H (a) or (b), or 6050I(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050I. Returns relating to foreclosures and abandonments of security.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acquisitions of property and determinations of abandonment of property made after December 31, 1984, and with respect to deductions (or additions to reserves) allowed after such date.

SEC. 149. INCREASE IN PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Subsection (a) of section 6700 (relating to promotion of abusive tax shelters) is amended by striking out "$1,000 or 10 percent" and inserting in lieu thereof "$2,000 or 20 percent".

(b) CLARIFICATION OF PENALTY.—Paragraph (2) of section 6700(a) (relating to abusive tax shelters) is amended by striking out "sale)" and inserting in lieu thereof "sale or incidental to the activity of such entity, plan, or arrangement)".

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

SEC. 150. INCREASED RATE OF INTEREST FOR TAX SHELTER CASES.

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end thereof the following new subsection:

"(d) INTEREST ON TAX SHELTER DEFICIENCIES AND OVERPAYMENTS.—

"(1) IN GENERAL.—In the case of interest payable under section 6601 or 6611 with respect to any tax shelter deficiency or overpayment, the annual rate of interest established under this section shall be 150 percent of the adjusted rate established under subsection (b).

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

"(A) TAX SHELTER DEFICIENCY OR OVERPAYMENT.—The term 'tax shelter deficiency or overpayment' means any portion of a deficiency or overpayment which is attributable to any qualified tax shelter.

"(B) QUALIFIED TAX SHELTER.—The term 'qualified tax shelter' means any tax shelter (within the meaning of section 6661(b)(2)(C)(ii)) in which more than 34 persons participate.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to interest accruing after December 31, 1984.

SEC. 151. AUTHORIZATION TO DISREGARD APPRAISALS OF PERSONS PENALIZED FOR AIDING IN UNDERSTATEMENTS OF TAX LIABILITY.

(a) IN GENERAL.—Section 330 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) After notice and opportunity for a hearing to any appraiser with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1954, the Secretary may—

"(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

"(2) bar such appraiser from presenting evidence or testimony in any such proceeding.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 152. PROVISIONS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) CLARIFICATION THAT REGULATIONS MAY REQUIRE REPORTS TO IDENTIFY YEARS TO WHICH CONTRIBUTIONS RELATE.—Subsection (i) of section 408 (relating to individual retirement accounts) is amended by inserting "(and the years to which they relate)" after "contributions".

(b) INCREASE IN PENALTY FOR FAILURE TO FILE REPORTS.—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts and annuities) is amended by striking out "$10" and inserting in lieu thereof "$50".

(c) CONTRIBUTIONS REQUIRED TO BE MADE ON OR BEFORE UNEXTENDED RETURN FILING DATE.—Subparagraph (A) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out "including" and inserting in lieu thereof "not including".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions made after the date which is 30 days after the date of enactment of this Act for taxable years beginning after December 31, 1983.

(2) SUBSECTION (b).—THE AMENDMENT MADE BY SUBSECTION (B) SHALL APPLY TO FAILURES OCCURRING AFTER THE DATE OF THE ENACTMENT OF THIS ACT.

SEC. 153. STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(d) STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.—If any broker—

"(1) transfers securities of a customer for use in a short sale or similar transaction, and

"(2) receives (on behalf of the customer) a payment in lieu of—

"(A) a dividend,

"(B) tax-exempt interest, or

"(C) such other items as the Secretary may prescribe by regulations,

during the period such short sale or similar transaction is open,

the broker shall furnish such customer a written statement (at such time and in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received after December 31, 1984.

SEC. 154. MODIFICATIONS TO CHARITABLE CONTRIBUTION RULES AND INCORRECT VALUATION PENALTY.

(a) SUBSTANTIATION OF CONTRIBUTIONS OF PROPERTY.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and inserting after subsection (i) the following new subsection:

"(j) FURTHER SUBSTANTIATION OF CERTAIN CONTRIBUTIONS OF PROPERTY REQUIRED.—

"(1) GENERAL RULE.—For each item of property described in subparagraph (A) or (B), a qualified appraisal shall be obtained and an appraisal summary shall be attached to any return on which a deduction under this section is first claimed by any individual, closely held corporation, or personal service corporation, for the contribution of property (other than publicly traded securities) if—

"(A) the claimed value of such property exceeds $2,000 for any single item of such property or set of similar items donated to a donee, or

"(B) the claimed value of all items of such property not described in subparagraph (A) donated to one or more donees exceeds in the aggregate $5,000.

Such return also shall include such additional information, including the cost basis and the acquisition date of each item of such property, as the Secretary prescribes by regulations. The qualified appraisal shall be retained by the taxpayer.

"(2) APPRAISAL SUMMARY.—For purposes of this subsection, the appraisal summary shall be in such form and include such information as the Secretary prescribes by regulations. Such summary shall be signed by the qualified appraiser preparing the

qualified appraisal and shall contain the TIN of such appraiser.

"(3) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means an appraisal prepared by a qualified appraiser which includes—

"(A) a description of the property appraised,

"(B) the fair market value of such property on the date of contribution and the specific basis for the valuation,

"(C) a statement that such appraisal was prepared for income tax purposes,

"(D) the qualifications of the qualified appraiser, and

"(E) the signature and TIN of such appraiser.

"(4) QUALIFIED APPRAISER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified appraiser' means an appraiser qualified to make appraisals of the type of property donated, who is not—

"(i) the taxpayer,

"(ii) a party to the transaction in which the taxpayer acquired the property,

"(iii) the donee, or

"(iv) any person employed by any of the foregoing persons or related to any of the foregoing persons under section 267(b).

"(B) APPRAISAL FEES.—For purposes of paragraph (3), an appraisal shall not be treated as a qualified appraisal if all or part of the fee paid for such appraisal is based on a percentage of the appraised value of the property. The preceding sentence shall not apply to fees based on a sliding scale that are paid to a generally recognized association regulating appraisers.

"(5) DISALLOWANCE OF DEDUCTION FOR FAILURE TO SUBSTANTIATE.—

"(A) GENERAL RULE.—If a taxpayer fails to comply with the requirements of this subsection, an amount equal to the greater of—

"(i) the amount of the otherwise allowable deduction in excess of the basis of the property contributed, or

"(ii) 10 percent of the amount of the otherwise allowable deduction,

shall be disallowed.

"(B) WAIVER OF DISALLOWANCE.—The Secretary in his discretion may waive all or any part of the disallowance under subparagraph (A) on a showing by the taxpayer that there was reasonable cause for the failure to meet any or all of the requirements of this subsection.

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

"(A) CLOSELY HELD CORPORATION.—The term 'closely held corporation' means any corporation (other than an S corporation) with respect to which the stock ownership requirement of paragraph (2) of section 542(a) is met.

"(B) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' means any corporation (other than an S corporation) which is a service organization (within the meaning of section 414(m)(3)).

"(C) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.".

(b) DISALLOWANCE OF CHARITABLE DEDUCTIONS.—Section 170 (relating to charitable, etc., contributions and gifts) (as amended by subsection (a) of this section) is further amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION IN THE CASE OF VALUATION OVERSTATEMENTS.—

"(1) IN GENERAL.—If the claimed value of property (described in paragraph (A) or (B) of section 170(j)(1)) with respect to which a charitable contribution deduction is taken is 150 percent or more of the amount determined to be the correct value of such property, the deduction shall be disallowed according to the following table:

"If the claimed value is the following percent of the correct value—	The resulting disallowance equals:
150 percent or more but less than 175 percent.	1/2 of the amount of the otherwise allowable deduction in excess of basis.
175 percent or more but less than 200 percent.	The amount of the otherwise allowable deduction in excess of basis.
200 percent or more.....	The amount of the otherwise allowable deduction.

"(2) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—The disallowance imposed in paragraph (1) shall apply regardless of the assessment of the penalty imposed by section 6659.".

(c) MODIFICATION OF PRESENT INCORRECT VALUATION PENALTY.—

(1) EXTENSION OF PENALTY TO INCORRECT ESTATE AND GIFT TAX VALUATIONS.—

(A) IN GENERAL.—Subsection (a) of section 6659 (relating to addition to tax in the case of valuation overstatements for purposes of the income tax) is amended—

(i) by inserting "or estate" after "individual" in paragraph (1), and

(ii) by striking out "chapter 1 for the taxable year" and inserting in lieu thereof "chapter 1, 11, or 12".

(B) CONFORMING AMENDMENT.—Subsection (d) of section 6659 (relating to underpayment must be at least $1,000) is amended by striking out "for the taxable year".

(2) PENALTY FOR VALUATION UNDERSTATEMENT.—

(A) IN GENERAL.—Subsection (c) of section 6659 is amended by inserting "or a valuation understatement" after "valuation overstatement".

(B) APPLICABLE PERCENTAGE DEFINED.—Subsection (b) of section 6659 (defining applicable percentage) is amended—

(i) by striking out all matter before the table in the first sentence and inserting in lieu thereof the following:

"(1) VALUATION OVERSTATEMENT.—For purposes of subsection (a), in the case of a valuation overstatement, the applicable percentage shall be determined under the following table:", and

(ii) by adding at the end thereof the following new paragraph:

"(2) VALUATION UNDERSTATEMENT.—For purposes of subsection (a), in the case of a valuation understatement, the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
50 percent or more but not more than 66⅔ percent.....	10
40 percent or more but less than 50 percent.....	20
Less than 40 percent.....	30.".

(C) CONFORMING AMENDMENT.—Subsection (d) of section 6659 is amended by inserting "or understatements" after "overstatements".

(3) VALUATION OVERSTATEMENT AND UNDERSTATEMENT DEFINED.—Subsection (c) of section 6659 (defining valuation overstatement) is amended to read as follows:

"(c) VALUATION OVERSTATEMENT AND VALUATION UNDERSTATEMENT DEFINED.—

"(1) VALUATION OVERSTATEMENT.—For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), and

"(2) VALUATION UNDERSTATEMENT.—For purposes of this section, there is a valuation understatement if the value of any property claimed on any return is 66⅔ percent or less of the amount determined to be the correct amount of such valuation.".

(4) TECHNICAL AMENDMENT.—Paragraph (2) of section 6659(f) (relating to other definitions) is amended by striking out "described in section 465(a)(1)(C)" and inserting in lieu thereof "with respect to which the stock ownership requirements of paragraph (2) of section 542(a) is met".

(5) CLERICAL AMENDMENTS.—

(i) The section heading for section 6659 is amended by striking out "FOR PURPOSES OF THE INCOME TAX" and inserting in lieu thereof "OR UNDERSTATEMENTS".

(ii) The table of sections for subchapter A of chapter 68 is amended by striking out "for purposes of the income tax" in the item relating to section 6659 and inserting in lieu thereof "or understatements".

(d) INFORMATION REPORT REQUIRED BY DONEE ON SALE.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 6050J. RETURNS RELATING TO CERTAIN DISPOSITIONS OF DONATED PROPERTY.

"(a) IN GENERAL.—If the donee of property described in section 170(j)(1)(A) sells, exchanges, or otherwise disposes of such property within 2 years of receipt, the donee shall make a return, in accordance with forms and regulations prescribed by the Secretary, showing—

"(1) the name, address, and TIN of the donor, or

"(2) a description of the property,

"(3) the date of the contribution,

"(4) the amount received on the disposition, and

"(5) the date of such disposition.

"(b) STATEMENTS TO BE FURNISHED TO DONORS.—Every person making a return under subsection (a) shall furnish to the donor a copy of such statement.".

(2) PENALTY FOR FAILURE TO FILE REPORT.—Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns) (as amended by sections 147 and 148 of this Act) is further amended—

(A) by striking out "or" at the end of clause (v),

(B) by inserting "or" at the end of clause (vi), and

(C) by inserting after clause (vi) the following new clause:

"(vii) section 6050J(a) (relating to returns relating to certain dispositions of donated property),".

(3) PENALTY FOR FAILURE TO FILE STATEMENT.—Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050I(d)" and inserting in lieu thereof "6050I(d), or 6050J(b)", and

(B) by striking out "or 6050I(a)" and inserting in lieu thereof "6050I(a) or 6050J(a)".

(4) CLERICAL AMENDMENT.—The table of sections of subpart B of part III of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050J. Returns relating to certain dispositions of donated property.".

(e) EFFECTIVE DATES.—

(1) SECTIONS 170 AND 6050J.—The amendments made by subsections (a) and (d) shall apply to charitable contributions made after December 31, 1984.

(2) SECTIONS 170 AND 6659.—The amendments made by subsections (b) and (c) shall apply to returns filed after December 31, 1984.

SEC. 155. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO CERTAIN CITIES.

(a) IN GENERAL.—Subsection (b) of section 6103 (relating to definitions for confidentiality and disclosure of returns and return information) is amended—

(1) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) STATE.—The term 'State' means—

"(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

"(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p)(8) any municipality—

"(i) with a population in excess of 2,000,000 (as determined under the most recent census data available),

"(ii) which imposes a tax on income or wages, and

"(iii) with which the Secretary has entered into an agreement (in his sole discretion) regarding disclosure.", and

(2) by adding at the end thereof the following new paragraph:

"(10) CHIEF EXECUTIVE OFFICER.—The term 'chief executive officer' means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act.

SEC. 156. INCREASE IN JURISDICTIONAL LIMIT FOR SMALL TAX CASES IN THE UNITED STATES TAX COURT.

(a) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving $5,000 or less) is amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$10,000".

(b) CONFORMING AMENDMENTS.—

(A) The section heading for section 7463 is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(B) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "$5,000" in the item relating to section 7463 and inserting in lieu thereof "$10,000".

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

SEC. 157. FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.

(a) IN GENERAL.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end thereof the following new subsection:

"(f) FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.—If the taxpayer does not file with the Secretary a request to change the method of accounting, the absence of the consent of the Secretary to a change in the method of accounting shall not be taken into account—

"(1) to prevent the imposition of any penalty, or the addition of any amount to tax, under this title, or

"(2) to diminish the amount of such penalty or addition to tax.".

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

SEC. 158. INTEREST ON CERTAIN ADDITIONS TO TAX.

(a) IN GENERAL.—Paragraph (2) of section 6601(e) (relating to interest on penalties and additions to tax) is amended to read as follows:

"(2) INTEREST ON PENALTIES, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—

"(A) IN GENERAL.—Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1), 6659, or 6661) only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

"(B) INTEREST ON CERTAIN ADDITIONS TO TAX.—Interest shall be imposed under this section with respect to any addition to tax imposed by section 6651(a)(1), 6659, or 6661 for the period which—

"(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

"(ii) ends on the date of payment of such addition to tax.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after the date of enactment of the Act with respect to additions to tax for which notice and demand is made after such date.

SEC. 159. PENALTY FOR FRAUDULENT WITHHOLDING EXEMPTION CERTIFICATE OR FAILURE TO SUPPLY INFORMATION.

(a) IN GENERAL.—Section 7205 (relating to penalty for fraudulent withholding exemption certificate) is amended—

(1) by striking out "in lieu of" each place it appears and inserting in lieu thereof "in addition to", and

(2) by striking out "(except the penalty provided by section 6682)" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions and failures to act occurring after the date of enactment of this Act.

SEC. 160. LIMITATION ON MAILING OF DEPOSITS OF TAXES.

(a) IN GENERAL.—Subsection (e) of section 7502 (relating to mailing of deposits) is amended by adding at the end thereof the following new paragraph:

"(3) NO APPLICATION TO CERTAIN DEPOSITS.—Paragraph (1) shall not apply with respect to any deposit of $20,000 or more by any person who is required to deposit the tax more than once a month.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to deposits made after June 30, 1984.

SEC. 161. APPLICATION OF PENALTY FOR FRIVOLOUS PROCEEDINGS TO PENDING TAX COURT PROCEEDINGS.

Paragraph (2) of section 292(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the United States Tax Court which—

"(A) is commenced after December 31, 1982, or

"(B) is pending in the United States Tax Court on the day which is 120 days after the date of enactment of the Deficit Reduction Tax Act of 1984.".

SEC. 162. FURNISHING OF TIN UNDER BACKUP WITHHOLDING.

(a) IN GENERAL.—Section 3406(e)(1) (relating to backup withholding) is amended by inserting at the end thereof the following new sentence: "The Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting.".

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

SEC. 163. REPORTING OF STATE TAX REFUNDS.

(a) IN GENERAL.—Section 6050E (relating to State and local income tax refunds) is amended—

(1) by striking out the second sentence of subsection (b),

(2) by redesignating subsection (c) as subsection (d), and

(3) by inserting after subsection (b) the following new subsection:

"(c) TIME OF STATEMENT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the written statement required under subsection (b) shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(2) PAYMENTS OF REFUNDS.—In the case of any payment of refunds, the written statement required under subsection (b) may be furnished to the individual with such payment.".

(b) PENALTY FOR FAILURE TO FILE STATEMENT.—Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(1) by inserting ", 6050E(b)" after "6052(a)", and

(2) by inserting ", 6050E(a)" after "6052(a)".

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

SEC. 164. STUDY ON TAX SHELTERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the entire area of tax shelters. Such study shall specifically examine—

(1) further extensions or expansions of minimum tax requirements,

(2) the revision of the "at-risk" and "recapture" rules,

(3) the impact of full basis adjustment for the investment tax credit, and

(4) proposals to limit the deductibility of artificial accounting losses.

(b) REPORT.—Not later than December 1, 1984, the Secretary of the Treasury shall

submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this section, with specific recommendations addressing the problem of stemming abusive tax-shelter activities.

SEC. 165. CLARIFICATION OF CHANGE OF VENUE FOR CERTAIN TAX OFFENSES.

Section 3237(b) of title 18 of the United States Code is amended to read as follows:

"(b) Notwithstanding the second paragraph of subsection (a), where an offense is described in section 7203 of the Internal Revenue Code of 1954, or where venue for prosecution of an offense described in section 7201 or 7206(1), (2), or (5) of such Code (whether or not the offense is also described in another provision of law) is based solely on a mailing to the Internal Revenue Service, and prosecution is begun in a judicial district other than the judicial district in which the defendant resides, he may upon motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed: *Provided*, That the motion is filed within twenty days after arraignment of the defendant upon indictment or information.".

SUBTITLE L—DEPRECIATION

SEC. 171. RECOVERY PERIOD FOR MOST REAL PROPERTY EXTENDED TO 20 YEARS.

(a) IN GENERAL.—Subsection (b) of section 168 (relating to amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) 20-YEAR REAL PROPERTY.—

"(A) IN GENERAL.—In the case of 20-year real property, the applicable percentage shall be determined in accordance with tables prescribed by the Secretary. In prescribing such tables, the Secretary shall—

"(i) assign a 20-year recovery period to the property, and

"(ii) assign percentages generally determined in accordance with use of the 175 percent declining balance method, switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

In the case of 20-year real property, the applicable percentage in the taxable year in which the property is placed in service shall be determined on the basis of the number of months in such year during which the property was in service.

"(B) SPECIAL RULE FOR YEAR OF DISPOSITION.—In the case of a disposition of 20-year real property, the deduction allowable under subsection (a) for the taxable year in which the disposition occurs shall reflect only the months during such year the property was in service.".

(b) LOW INCOME HOUSING.—Subparagraph (A) of section 168(b)(2) (relating to 15-year real property) is amended—

(1) by striking out "175 percent declining balance method (200 percent declining balance method in the case of low income housing)" and inserting in lieu thereof "200 percent declining balance method", and

(2) by striking out the last sentence thereof.

(c) DEFINITIONS.—Paragraph (2) of section 168(c) (relating to recovery property) is amended—

(1) by redesignating subparagraph (F) as subparagraph (G),

(2) by inserting the following new subparagraph after subparagraph (E):

"(F) 20-year real property.—The term '20-year real property' means section 1250 class property which—

"(i) does not have a present class life of 12.5 years or less, and

"(ii) is not 15-year real property.", and

(3) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) 15-year real property.— The term '15-year real property' means section 1250 class property which—

"(i) does not have a present class life of 12.5 years or less, and

"(ii) is low-income housing.

For purposes of the preceding sentence, the term 'low-income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B).".

(d) TRANSITIONAL RULE FOR COMPONENTS.—Subparagraph (B) of section 168(f)(1) is amended to read as follows:

"(B) TRANSITIONAL RULES.—

"(i) BUILDINGS PLACED IN SERVICE BEFORE 1981.—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such buildings placed in service after December 31, 1980, and before March 16, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after December 31, 1980. For purposes of the preceding sentence, the method of computing the deduction allowable with respect to such first component shall be determined as if it were a separate building.

"(ii) BUILDINGS PLACED IN SERVICE BEFORE MARCH 16, 1984.—In the case of any building placed in service by the taxpayer before March 16, 1984, for purposes of applying subparagraph (A) to components of such buildings placed in service after March 15, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after March 15, 1984. For purposes of the preceding sentence the method of computing the deduction allowable with respect to such first component shall be determined as if it were a separate building.".

(e) CONFORMING AMENDMENTS.—

(1) Subsections (b)(3)(B)(iii), (f)(2)(B), (f)(2)(C)(ii)(II), (f)(2)(E), and (f)(5) of section 168 are each amended by inserting "or 20-year real property" after "15-year real property" each place it appears.

(2) Clause (ii) of section 168(b)(3)(B) is amended by inserting "or 20-year real property," after "15-year real property".

(3) Subparagraph (B) of section 168(d)(2) is amended by inserting ", or 20-year real property," after "15-year real property".

(4) Clause (i) of section 168(f)(2)(C) (relating to recovery period for property used outside United States) is amended by inserting the following item after the item relating to 15-year real property in the table:

"20-year real property.....35 or 45 years.".

(5) Sections 57(a)(12)(A), 312(k)(3)(A), and 1245(a)(5) are each amended by inserting "or 20-year real property" after "15-year real property" each place it appears in the text and headings.

(6) Subparagraph (B) of section 57(a)(12) (relating to items of tax preference) is amended to read as follows:

"(B) 15-year real property; 20-year real property.—With respect to each recovery property which is 15-year real property or 20-year real property, the amount (if any) by which the deduction allowed under section 168(a) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using the straight-line method (without regard to salvage value) over a recovery period of—

"(i) 15 years in the case of 15-year real property, and

"(ii) 20 years in the case of 20-year real property.".

(7) Subparagraph (E) of section 57(a)(12) is amended by inserting "'20-year real property'," after "'15-year real property',".

(8) Paragraph (2) of section 48(g) (relating to qualified rehabilitation expenditure) is amended—

(A) by striking out "property" each place it appears in subparagraph (A)(i) and inserting in lieu thereof "real property",

(B) by inserting "or 20" after "15" in subparagraph (A)(i), and

(C) by striking out "15 years" in subparagraph (B)(v) and inserting in lieu thereof "20 years (15 years in the case of 15-year real property)".

(9) Subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended—

(A) by striking out "under paragraphs (1) and (2)" and inserting in lieu thereof "under paragraph (1), (2), or (4)", and

(B) by inserting after the item in the table relating to 15-year real property the following new item:

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service by the taxpayer after March 15, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1987, if—

(A) the taxpayer or a qualified person entered into a binding contract to purchase or construct such property before March 16, 1984, or

(B) construction of such property was commenced by or for the taxpayer or a qualified person before March 16, 1984.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer, but only if such property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 172. RECAPTURE IN CASES OF INSTALLMENT SALES.

(a) IN GENERAL.—Section 453 (relating to installment method) is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following new subsection:

"(j) APPLICATION WITH SECTIONS 1245 AND 1250.—

"(1) IN GENERAL.—In the case of an installment sale of real property, subsection (a) shall not apply, and for purposes of this title, all payments to be received shall be deemed received in the year of disposition.

(2) LIMITATION.—Paragraph (1) shall apply only to the extent of the amount which is treated as ordinary income under section 1245 or 1250 with respect to the real property.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to dispositions made after March 15, 1984.

(2) EXCEPTION.—The amendments made by this Act shall not apply with respect to any disposition conducted pursuant to a

contract which was binding on March 15, 1984.

SEC. 173. PROVISIONS RELATING TO SOUND RECORDINGS AND FILMS.

(a) SOUND RECORDINGS.

(1) IN GENERAL.—Section 48 (defining section 38 property) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) SPECIAL RULES RELATING TO SOUND RECORDINGS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any sound recording which, if it were section 38 property, would be new section 38 property, the taxpayer may elect to treat such recording as recovery property which is 3-year property to the extent that the taxpayer has an ownership interest in such recording.

"(2) FAILURE TO MAKE ELECTION.—If a taxpayer does not make an election under paragraph (1) with respect to any sound recording—

"(A) no credit shall be allowed under section 38 with respect to such recording, and

"(B) such recording shall not be treated as recovery property.

"(3) PREDOMINANT USE TEST AND AT RISK RULES NOT TO APPLY; QUALIFIED INVESTMENT.—In the case of any sound recording—

"(A) sections 46(c)(8), 46(c)(9), and 48(a)(2) shall not apply, and

"(B) in determining the qualified investment under section 46(c)(1), there shall be used (in lieu of the basis of the property) an amount equal to the production costs which are allocable to the United States (as determined under rules similar to the rules of section 48(k)(5)(D)).

"(4) OWNERSHIP INTEREST.—For purposes of determining the credit allowable under section 38, the ownership interest of any person in a sound recording shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such sound recording.

"(5) SOUND RECORDING.—For purposes of this subsection, the term 'sound recording' means any sound recording described in section 280(c)(2).

"(6) PRODUCTION COSTS—

"(A) IN GENERAL.—For purposes of this section, the term 'production costs' includes—

"(i) a reasonable allocation of general overhead costs,

"(ii) compensation for services performed by song writers, artists, production personnel, directors, producers, and similar personnel,

"(iii) costs of 'first' distribution of records or tapes, and

"(iv) the cost of the material being recorded.

"(B) CERTAIN COSTS NOT TAKEN INTO ACCOUNT.—The term 'production costs' shall not include—

"(i) 'residuals' payable under contracts with labor organizations, or

"(ii) participations or royalties payable as compensation to song writers, artists, production personnel, directors, producers, and similar personnel, or

"(iii) any other contingent amounts.

"(7) ELECTION MADE SEPARATELY.—An election under paragraph (1) shall be made separately with respect to each sound recording and must be made by all persons having an ownership interest in such recording.

"(8) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the possessions of the United States.".

(2) CONFORMING AMENDMENTS.—Section 168(f) (relating to special rules), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(14) SPECIAL RULES FOR SOUND RECORDINGS.—In the case of a qualified sound recording (within the meaning of section 48(r)), the unadjusted basis of such property shall be equal to the production costs (within the meaning of section 48(r)(6)).".

(b) FILMS AND OTHER PROPERTY.—

(1) FILM AND VIDEO TAPES NOT TREATED AS RECOVERY PROPERTY.—Section 168(e) (relating to property excluded from application of this section) is amended by adding at the end thereof the following new paragraph:

"(5) FILMS AND VIDEO TAPES NOT RECOVERY PROPERTY.—The term 'recovery property' shall not include any motion picture film or video tape.".

(2) APPLICATION OF RECOVERY PROPERTY EXCEPTIONS.—Section 168(e) is amended by striking out "section" and inserting in lieu thereof "title" in the matter preceding paragraph (1).

(3) MOVIES NOT SUBJECT TO INVESTMENT CREDIT AT-RISK RULES.—Paragraph (4) of section 48(k) is amended—

(A) by inserting ", section 46(c)(8), or section 46(c)(9)" after "section 48(a)(2)" in subparagraph (A), and

(B) by inserting "or at-risk rules" after "test" in the heading thereof.

(4) BASIS ADJUSTMENT FOR MOVIES.—Section 48(q) (relating to basis adjustment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED FILMS.—If a credit is allowed under section 38 with respect to any qualified film (within the meaning of subsection (k)(1)(B)) then, in lieu of any reduction under paragraph (1)—

"(A) to the extent that the credit is determined with respect to any amount described in clause (v) or (vi) of subsection (k)(5)(B), any deduction allowable under this chapter with respect to such amount shall be reduced by 50 percent of the amount of the credit so determined, and

"(B) the taxpayer's ownership interest (within the meaning of subsection (k)(1)(C)) shall be reduced by the excess of—

"(i) 50 percent of the amount of the credit determined under subsection (k), over

"(ii) the amount of the reduction under subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) SOUND RECORDINGS.—The amendments made by subsection (a) shall apply to property placed in service after March 15, 1984, in taxable years ending after such date.

(2) FILMS AND OTHER PROPERTY.—

(A) The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall apply as if included in the amendments made by the Economic Recovery Tax Act of 1981, except that the amendments made by paragraph (1) of subsection (b) shall not apply to any qualified film which the taxpayer treated as recovery property for purposes of section 168 of such Code on a return filed before March 16, 1984.

(B) The amendment made by paragraph (4) of subsection (b) shall take effect as if included in the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982.

SUBTITLE M—MISCELLANEOUS PROVISIONS

SEC. 175. INCLUSION OF TAX BENEFIT ITEMS IN INCOME.

(a) IN GENERAL.—Section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts) is amended to read as follows:

"SEC. 111. RECOVERY OF TAX BENEFIT ITEMS.

"(a) DEDUCTIONS.—Gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce income subject to tax.

"(b) TREATMENT OF CARRYOVERS.—For purposes of this section, an increase in a carryover which has not expired before the beginning of the taxable year in which the recovery takes place shall be treated as reducing income subject to tax.

"(c) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX AND FOR PERSONAL HOLDING COMPANY TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

"(1) any excluded amount under subsection (a) allowed for the purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

"(2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by striking out the item relating to section 111 and inserting in lieu thereof:

"Sec. 111. Recovery of tax benefit items.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date.

SEC. 176. LOANS WITH BELOW-MARKET INTEREST RATES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end thereof the following new sections:

"SEC. 7872. GIFT LOANS WITH BELOW-MARKET INTEREST RATES.

"(a) IMPUTED INTEREST.—In the case of a gift loan, the borrower shall be treated for purposes of this title as having paid to the lender (and the lender treated as having received from the borrower) on the last day of each outstanding taxable year of the borrower an amount of interest equal to the sum of the amounts of interest imputed on such loan under subsection (c) for each day within such taxable year on which such loan is outstanding.

"(b) IMPUTED GIFTS.—For purposes of this title—

"(1) DEMAND LOANS.—In the case of a gift loan which is a demand loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on the last day of each outstanding taxable year of the borrower a gift in an amount equal to the sum of the amounts of interest imputed on such loan under subsection (c) for each day within such taxable year on which such loan is outstanding.

"(2) TERM LOANS.—

"(A) IN GENERAL.—In the case of a gift loan which is a term loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on the date the loan is made a gift in an amount equal to the excess of—

"(i) the principal of the loan, over

"(ii) the present value (at the time the loan is made) of the payments of principal and interest which are required to be made under the terms of the loan.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of each payment shall be determined by using the designated market interest rate applicable at the time the loan is made, compounded semiannually.

"(c) AMOUNT OF INTEREST IMPUTED DAILY.—For purposes of this section, the amount of interest imputed on a loan for any day within the taxable year of the borrower is the excess of—

"(1) the amount of interest which would have accrued on the outstanding balance of the loan during such day if interest accrued on the loan at an annual rate equal to the designated market interest rate applicable for—

"(A) in the case of a demand loan, such day, or

"(B) in the case of a term loan, the day on which the loan was made, over

"(2) the portion of interest actually paid or accrued on the loan that is properly attributable to such day.

"(d) LIMITATIONS APPLICABLE TO LOANS MADE DIRECTLY BETWEEN INDIVIDUALS.—

"(1) MINIMUM OUTSTANDING BALANCE.—

"(A) IN GENERAL.—No interest shall be taken into account under subsections (a) and (b)(1) with respect to any day on which the aggregate amount of loans outstanding between the borrower and the lender is $10,000 or less.

"(B) IMPUTED GIFT ON TERM LOANS.—Subsection (b)(2) shall not apply to a loan if the aggregate amount of loans outstanding between the borrower and the lender on the date such loan is made is $10,000 or less.

"(2) NET INVESTMENT INCOME LIMITATIONS.—

"(A) MINIMUM NET INVESTMENT INCOME.—If the sum of—

"(i) the net investment income of the borrower for the taxable year, and

"(ii) the net investment income of the spouse of the borrower for the taxable year ending with or within such taxable year of the borrower,

does not exceed $1,000, no interest shall be taken into account under subsection (a) with respect to any qualifying day within such taxable year.

"(B) IMPUTED INTEREST NOT TO EXCEED NET INVESTMENT INCOME.—The aggregate amount of interest which may be taken into account under subsection (a) with respect to qualifying days within the taxable year of the borrower shall not exceed the sum described in subparagraph (A) for such taxable year.

"(C) NO APPLICATION TO LOAN USED IN ACQUIRING SECURITIES.—This paragraph shall not apply with respect to any loan which is made for the purpose of acquiring or carrying any marketable securities (other than evidences of indebtedness).

"(D) QUALIFYING DAYS.—For purposes of this paragraph, the term 'qualifying day' means any day on which the aggregate amount of loans outstanding between the lender and the borrower does not exceed $100,000.

"(3) LOANS BETWEEN INDIVIDUALS.—This subsection shall only apply with respect to gift loans made directly between individuals.

"(4) SUBSECTION NOT TO APPLY TO CERTAIN LOANS.—

"(A) TAX AVOIDANCE.—This subsection shall not apply with respect to a loan if tax avoidance is a principal purpose of such loan.

"(B) LOANS USED TO PURCHASE INVESTMENTS.—The provisions of this subsection (other than paragraph (2)(B)) shall not apply with respect to any loan which is incurred or continued to purchase or carry investments which produce net investment income.

"(5) MODIFICATION UNDER REGULATIONS.—The Secretary may prescribe regulations which modify the provisions of this subsection with respect to a loan if the lender, borrower, or any person related to the lender or borrower—

"(A) has engaged in any activities a principal purpose of which was the deferral of receipt of net investment income, or

"(B) can control the time at which net investment income is received by the borrower or the spouse of the borrower.

"(6) DETERMINATION OF AGGREGATE AMOUNT OF LOANS OUTSTANDING BETWEEN BORROWER AND LENDER.—In determining the aggregate amount of loans outstanding between a borrower and a lender on any day for purposes of this subsection, any loan between—

"(A) the lender and the spouse of the borrower,

"(B) the spouse of the borrower and the spouse of the lender, or

"(C) the borrower and the spouse of the lender,

shall be treated as a loan between the borrower and the lender.

"(e) DESIGNATED MARKET INTEREST RATE.—For purposes of this section—

"(1) DEMAND LOANS.—In the case of a demand loan, the designated market interest rate is the Federal short-term rate.

"(2) TERM LOANS.—In the case of a term loan, the designated market interest rate shall be determined in accordance with the following table:

"In the case of a loan with a term of:	The designated market interest rate is:
Less than 3 years	The Federal short-term rate
Over 3 years but not over 9 years.	The Federal mid-term rate
Over 9 years	The Federal long-term rate.

"(3) FEDERAL RATES.—For purposes of this subsection, the terms 'Federal short-term rate', 'Federal mid-term rate', and 'Federal long-term rate' have the respective meaning given to such terms by section 1274(d).

"(4) TERM OF A LOAN.—Options to renew or extend the term of a loan shall be taken into account in determining the length of the term of the loan.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) GIFT LOANS.—The term 'gift loan' means any below-market loan with respect to which interest is foregone with donative intent.

"(2) BELOW-MARKET LOAN.—The term 'below-market loan' means any loan on which interest is payable at a rate less than the designated market interest rate.

"(3) NET INVESTMENT INCOME.—

"(A) IN GENERAL.—The term 'net investment income' has the meaning given to such term by section 163(d)(3).

"(B) ADDITIONAL AMOUNTS TREATED AS INTEREST.—In determining the net investment income of a person for any taxable year—

"(i) any amount which is included in the gross income of such person for such taxable year by reason of section 1272, and

"(ii) any amount which would be included in the gross income of such person for such taxable year by reason of section 1272 if such section applied to deferred payment obligations,

shall be treated as interest received by such person for such taxable year.

"(C) DEFERRED PAYMENT OBLIGATIONS.—The term 'deferred payment obligations' includes market discount bonds, short-term government obligations, annuities and any similar obligations.

"(4) DEMAND LOAN.—The term 'demand loan' means any loan which is payable in full at any time upon the demand of the lender.

"(5) TERM LOAN.—The term 'term loan' means any loan which is not a demand loan.

"(6) OUTSTANDING TAXABLE YEAR.—The term 'outstanding taxable year' means, with respect to any loan, any taxable year which includes at least one day on which such loan is outstanding.

"(7) APPLICATION WITH OTHER PROVISIONS RELATING TO IMPUTATION OF INTEREST.—Subsection (a) shall not apply to any loan to which section 483 or 1274 applies.

"(8) NO BACKUP WITHHOLDING OF INTEREST.—Section 3406 shall not apply with respect to any interest which is treated as having been paid and received by reason of this section.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section.

"(2) ESTATE TAX.—The Secretary may prescribe regulations which require that a gift loan be taken into account in determining the gross estate of a decedent in a manner consistent with the provisions of subsection (b).

"SEC. 7873. OTHER LOANS WITH BELOW-MARKET INTEREST RATES.

"(a) TERM LOANS.—For purposes of this title—

"(1) IMPUTED WAGES, DIVIDENDS, AND OTHER PAYMENTS.—

"(A) IN GENERAL.—In the case of an applicable loan which is a term loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on the date the loan is made wages, a dividend, or any other payment, as the case may be, in an amount equal to the excess of—

"(i) the principal of the loan, over

"(ii) the present value (at the time the loan is made) of the payments of principal and interest which are required to be made under the terms of the loan.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of each payment shall be determined by using the designated market interest rate applicable at the time the loan is made, compounded semiannually.

"(2) OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT.—For purposes of this title—

"(A) IN GENERAL.—Any applicable loan that is a term loan shall be treated as having original issue discount in an amount equal to the excess described in paragraph (1)(A).

"(B) ADDITIONAL ORIGINAL ISSUE DISCOUNT.—Any original issue discount which an obligation is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such obligation (determined without regard to subparagraph (A)).

"(b) DEMAND LOANS.—For purposes of this title—

"(1) IMPUTED INTEREST.—In the case of an applicable loan which is a demand loan, the borrower shall be treated as having paid to the lender (and the lender treated as having received from the borrower) on any day on which such loan is outstanding the amount of interest imputed on such loan under subsection (c) for such day.

"(2) IMPUTED WAGES, DIVIDENDS, AND OTHER PAYMENTS.—In the case of an applicable loan which is a demand loan, the lender shall be treated as having paid to the borrower (and the borrower treated as having received from the lender) on any day on which such loan is outstanding wages, a dividend, or any other payment, as the case may be, in an amount equal to the amount of interest imputed on such loan under subsection (c) for such day.

"(c) AMOUNT OF INTEREST IMPUTED DAILY.—For purposes of this section, the amount of interest imputed on a loan for any day is the excess of—

"(1) the amount of interest which would have accrued on the outstanding balance of the loan during such day if interest accrued on the loan at an annual rate equal to the designated market interest rate applicable for such day, over

"(2) the portion of interest actually paid or accrued on the loan that is properly attributable to such day.

"(d) LIMITATIONS APPLICABLE TO EMPLOYMENT RELATED LOANS.—

"(1) TERM LOANS.—Subsection (a) shall not apply to a term loan between—

"(A) an employer and an employee, or

"(B) an independent contractor and a person for whom such contractor provides services,

if the aggregate amount of loans outstanding between the borrower and the lender on the date on which such loan is made is $10,000 or less.

"(2) DEMAND LOANS.—In the case of a demand loan between two persons described in either subparagraph (A) or (B) of paragraph (1), subsection (b) shall not apply with respect to any day on which the aggregate amount of loans outstanding between the borrower and the lender is $10,000, or less.

"(3) NO APPLICATION TO LOANS USED IN ACQUIRING TAX-EXEMPT BONDS.—This subsection shall not apply with respect to any loan made to acquire or carry any obligation the interest on which is wholly exempt from taxation under this title.

"(e) NO WITHHOLDING OF IMPUTED AMOUNTS.—Sections 3102, 3202, 3402, and 3406 shall not apply with respect to any amount which is treated as having been paid and received by reason of this section.

"(f) APPLICATION WITH OTHER PROVISIONS RELATING TO IMPUTATION OF INTEREST.—Subsection (a) shall not apply to any loan to which section 483 or 1274 applies.

"(g) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE LOANS.—

"(A) IN GENERAL.—The term 'applicable loan' means—

"(i) a loan made between a corporation and shareholder of such corporation,

"(ii) a loan made by an employer to an employee,

"(iii) a loan made to an independent contractor by any person for whom such contractor performs services, and

"(iv) such other loans as the Secretary may prescribe by regulations.

"(B) EXCLUSION OF GIFT LOANS.—The term 'applicable loan' shall not include a gift loan (within the meaning of section 7872(f)).

"(2) DESIGNATED MARKET INTEREST RATE.—The term 'designated market interest rate' has the meaning given to such term by section 7872(e).

"(3) DEMAND LOANS; TERM LOANS.—The terms 'demand loan' and 'term loan' have the respective meaning given to such terms by section 7872(f).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end thereof the following new sections:

"Sec. 7872. Gift loans with below-market interest rates.
"Sec. 7873. Other loans with below-market interest rates.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to amounts outstanding on loans after the date of enactment of this Act.

(2) TERM LOANS.—The amendments made by this section shall not apply to term loans made before February 1, 1984.

SEC. 177. LIFO CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.

(a) GENERAL RULE.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end thereof the following new subsection:

"(g) CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.—

"(1) IN GENERAL.—Except as otherwise provided in regulations, all members of the same group of financially related corporations shall be treated as 1 taxpayer for purposes of subsections (c) and (e)(2).

"(2) GROUP OF FINANCIALLY RELATED CORPORATIONS.—For purposes of paragraph (1), the term 'group of financially related corporations' means—

"(A) any affiliated group as defined in section 1504 determined by substituting '50 percent' for '80 percent' each place it appears in section 1504(a) and without regard to section 1504(b), and

"(B) any other group of corporations which consolidate or combine for purposes of financial statements.".

(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. 178. MODIFICATION OF INCOME ELIGIBILITY FOR INCOME AVERAGING.

(a) BASE PERIOD SHORTENED TO 3 YEARS.—Paragraph (2) of section 1302(c) (relating to definition of averagable income; related definitions) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(b) INCREASE IN PERCENTAGE OF AVERAGE BASE INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to limitation on tax) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1301 (relating to limitation on tax) is amended—

(A) by striking out "5 times" and inserting in lieu thereof "4 times", and

(B) by striking out "20 percent" and inserting in lieu thereof "25 percent".

(2) Paragraph (1) of section 1302(a) (defining averagable income) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(3) Paragraph (1) of section 1302(b) (defining average base period income) is amended by striking out "one-fourth" and inserting in lieu thereof "⅓".

(4) Paragraph (3) of section 1302(c) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to computation years beginning after December 31, 1983, and to base period years applicable to such computation years.

SEC. 179. LIMITATIONS ON BUSINESS DEDUCTIONS FOR PROPERTY WHICH IS PARTIALLY USED FOR PERSONAL PURPOSES.

(a) IN GENERAL.—Section 274 (relating to disallowance of certain entertainment expenses) is amended by redesignating subsection (i) as subsection (k) and by inserting after subsection (h) the following new subsections:

"(i) AUTOMOBILES USED FOR NONBUSINESS PURPOSES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, if the taxpayer's business use of an automobile does not meet the requirements of paragraph (2)(A) for any taxable year, the aggregate amount allowable as a deduction for such taxable year and any subsequent taxable year with respect to such automobile for—

"(A) operating expenses (including repairs),

"(B) license and registration expenses,

"(C) depreciation and expensing,

"(D) lease payments, and

"(E) insurance,

shall not exceed a mileage allowance prescribed by the Secretary under regulations.

"(2) SUFFICIENT BUSINESS USE.—

"(A) IN GENERAL.—A taxpayer's business use of an automobile meets the requirements of this subparagraph for the taxable year if the number of miles for which such automobile is used in carrying on a trade or business of the taxpayer (or in any activity described in section 212) during the taxable year equals or exceeds 90 percent of the aggregate number of miles for which such automobile was used for any purpose during such taxable year.

"(B) AUTOMOBILES KEPT AT RESIDENCE OVERNIGHT.—

"(i) IN GENERAL.—A taxpayer's business use of an automobile shall be treated as failing to meet the requirements of subparagraph (A) for the taxable year if such automobile is kept at the residence of the taxpayer overnight more than 14 nights during the taxable year.

"(ii) EXCEPTIONS.—This subparagraph shall not apply if—

"(I) the trade or business of the taxpayer is described in section 62(2)(D), or

"(II) the residence of the taxpayer is the principal place of business of the principal trade or business of the taxpayer.

"(C) REQUIREMENTS MUST BE MET FOR AT LEAST 2 TAXABLE YEARS.—The taxpayer's business use of an automobile shall be treated as failing to meet the requirements of subparagraph (A) for the qualifying taxable year if the taxpayer's business use of such automobile fails to meet the requirements of subparagraph (A) for the taxable year succeeding the qualifying taxable year. The amount of any deduction or credit claimed in the qualifying taxable year which is not allowable by reason of the preceding sentence shall be included in gross income, or added to tax, as appropriate, for the year following the qualifying year.

"(3) RECAPTURE.—If the taxpayer's business use of an automobile fails to meet the requirements of paragraph (2)(A) for any taxable year beginning after the taxable year which succeeds the qualifying taxable year, there shall be included in the gross income of the taxpayer for the taxable year in which such failure occurs an amount of ordinary income equal to—

"(A) in the case of a taxpayer who is a lessee of such automobile and who deducts amounts in excess of those provided for in paragraph (1), a percentage (determined under regulations) of the aggregate amount of deductions for lease payments which were allowed the taxpayer with respect to such automobile for all previous taxable years, or

"(B) in all other cases, the excess of—

"(i) the sum of—

"(I) the aggregate amount allowed the taxpayer as a deduction for depreciation or amortization with respect to such automobile, plus

"(II) the aggregate amount allowed the taxpayer as a deduction under section 179 with respect to such automobile, over

"(ii) the aggregate amount of depreciation deductions which would have been allowable to the taxpayer with respect to such automobile for all previous taxable years if the taxpayer had depreciated the automobile to its fair market value as of the beginning of the year in which the failure occurs.

"(4) USE BY OTHER PARTIES.—If the taxpayer's automobile is used by another person, any use of the automobile by that other person—

"(A) which is not directly connected with a trade or business or income producing activity of the taxpayer,

"(B) which does not give rise to income to the other person and, with respect to an employee, is treated as wages to the employee for purposes of chapter 24, or

"(C) for which a fair rent is not paid,

shall not be treated (for purposes of applying this subsection with respect to the taxpayer) as use in the trade or business of the taxpayer or in any activity described in section 212.

"(5) NO APPLICATION TO SHORT LEASES.—This subsection shall not apply with respect to the lessee of any automobile leased for a period (including renewals) that does not exceed 30 days.

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

"(A) AUTOMOBILE.—The term 'automobile' has the meaning given to such term by section 4064(b)(1).

"(B) QUALIFYING TAXABLE YEAR.—The term 'qualifying taxable year' means—

"(i) in the case of a taxpayer who is a lessee of the automobile, the taxable year in which the lease begins, and

"(ii) in the case of any other taxpayer, the taxable year in which the taxpayer places the automobile in service.

"(j) CERTAIN DEPRECIABLE PROPERTY USED FOR NONBUSINESS PURPOSES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, if the taxpayer's business use of any applicable property does not meet the requirements of paragraph (2)(A) for any taxable year, the aggregate amount allowable as a deduction for such taxable year and any subsequent taxable year with respect to such property for depreciation, expensing, or amortization shall not exceed the amount of such deduction which would be allowable for such taxable year if such property were depreciated under the straight line method over a 12-year recovery period (without regard to salvage value and using a half-year convention).

"(2) SUFFICIENT BUSINESS USE.—

"(A) IN GENERAL.—A taxpayer's business use of applicable property meets the requirements of this subparagraph for the taxable year if the use of such property in carrying on the trade or business of the taxpayer (or in any activity described in section 212) for the taxable year equals or exceeds 90 percent of the aggregate use of such property for the taxable year.

"(B) REQUIREMENTS MUST BE MET FOR AT LEAST 2 TAXABLE YEARS.—The taxpayer's business use of applicable property shall be treated as failing to meet the requirements of subparagraph (A) for the qualifying taxable year if the taxpayer's business use of such property fails to meet the requirements of subparagraph (A) for the taxable year succeeding the qualifying taxable year. The amount of any deduction or credit claimed in the qualifying year which is not allowable by reason of the preceding sentence shall be included in gross income, or added to tax, as appropriate, for the year following the qualifying year.

"(3) LEASE PAYMENTS.—Notwithstanding any other provision of this title, if the taxpayer's business use of applicable property leased by taxpayer does not meet the requirements of paragraph (2)(A) for any taxable year, the aggregate amount allowed as a deduction for such taxable year and any subsequent taxable year with respect to such property for lease payments made in such taxable year shall not exceed a percentage (prescribed in regulations) of the portion of such payments which corresponds to the taxpayer's business use.

"(4) RECAPTURE.—If the taxpayer's business use of applicable property fails to meet the requirements of paragraph (2)(A) for any taxable year beginning after the taxable year which succeeds the qualifying taxable year, there shall be included in the gross income of the taxpayer for the taxable year in which such failure occurs an amount of ordinary income equal to—

"(A) in the case of a taxpayer who is a lessee of such property, a percentage (prescribed in regulations) of the aggregate amount of deductions for lease payments which were allowed the taxpayer with respect to such property for all previous taxable years, or

"(B) in all other cases, the excess of—

"(i) the sum of—

"(I) the aggregate amount allowed the taxpayer as a deduction for depreciation or amortization with respect to such property, plus

"(II) the aggregate amount allowed the taxpayer as a deduction under section 179 with respect to such property, over

"(ii) the aggregate amount of depreciation deductions which would have been allowable to the taxpayer with respect to such property for all previous taxable years if the taxpayer had depreciated the property under the straight line method over a 12-year recovery period (without regard to salvage value and using a half-year convention).

"(5) USE BY OTHER PARTIES.—If the taxpayer's property is used by another person, any use of the property by that other person—

"(A) which is not directly connected with a trade or business or income producing activity of the taxpayer,

"(B) which does not give rise to income to the other person and with respect to an employee, is treated as wages to the employee for purposes of chapter 24, or

"(C) for which a fair rent is not paid,

shall not be treated (for purposes of applying this subsection with respect to the taxpayer) as use in the trade or business of the taxpayer or in any activity described in section 212.

"(6) NO APPLICATION TO SHORT LEASES.—This subsection shall not apply with respect to the lessee of any property leased for a period (including renewals) that does not exceed 30 days.

"(7) APPLICABLE PROPERTY.—For purposes of this subsection, the term 'applicable property' means—

"(A) any property used as a means of transportation (other than an automobile as defined in subsection (i)(6)(A)),

"(B) any property of a type generally used for purposes of entertainment, recreation, or amusement,

"(C) any computers, or

"(D) such other property as the Secretary may prescribe by regulations,

with respect to which a deduction for depreciation (or deductions in lieu of depreciation) is allowable.".

(b) INVESTMENT TAX CREDIT.—

(1) DENIAL OF CREDIT.—Subsection (e) of section 46 (relating to limitations with respect to certain persons), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(5) PROPERTY USED FOR NONBUSINESS PURPOSES.—

"(A) AUTOMOBILES.—No credit shall be allowed under section 38 with respect to any automobile (within the meaning of section 4064(b)(1)) if the taxpayer's business use of such automobile fails to meet the requirements of section 274(i)(2)(A) for the taxable year in which such automobile is placed in service by the taxpayer or for the succeeding taxable year.

"(B) OTHER PROPERTY.—No credit shall be allowed under section 38 with respect to any property to which section 274(j) applies if the taxpayer's business use of such property fails to meet the requirements of section 274(j)(2)(A) for the taxable year in which such property is placed in service by the taxpayer or for the succeeding taxable year.".

(2) RECAPTURE OF CREDIT.—Section 47 (relating to dispositions of section 38 property) is amended by adding at the end thereof the following new subsection:

"(e) PROPERTY USED FOR NONBUSINESS PURPOSES.—If—

"(1) the taxpayer's business use of an automobile (within the meaning of section 4064(b)(1)) fails to meet the requirements of section 274(i)(2)(A), or

"(2) the taxpayer's business use of any other property to which section 274(j) applies fails to meet the requirements of section 274(j)(2)(A),

for any taxable year beginning after the taxable year succeeding the taxable year in which such automobile or other property was placed in service by the taxpayer, such automobile or such other property shall be treated, for purposes of this section, as having ceased to be section 38 property within the taxable year in which such failure occurs.".

(c) COMPLIANCE.—Section 274(d) is amended by—

(1) striking out "or" at the end of paragraph (2),

(2) adding "or" at the end of paragraph (3),

(3) adding after paragraph (3) the following new paragraph:

"(4) for any item described in subsections (i) or (j),",

(4) striking out "or by sufficient evidence corroborating his own statement", and

(5) by adding at the end thereof "Any income tax return preparer who prepares a return of the tax imposed by this chapter for any taxable year shall verify that adequate contemporaneous records have been kept supporting deductions to which this subsection may apply before signing such return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) property placed in service after March 15, 1984, and

(2) leases of property entered into after such date.

SEC. 180. AMENDMENTS TO SECTION 267.

(a) ALLOWANCE OF DEDUCTION WHERE EXPENSES AND INTEREST ARE PAID TO RELATED CASH-BASIS TAXPAYERS AFTER 2½-MONTH PERIOD.—

(1) IN GENERAL.—Subsection (a) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended to read as follows:

"(a) IN GENERAL.—

"(1) DEDUCTION FOR LOSSES DISALLOWED.—No deduction shall be allowed in respect of any loss from the sale or exchange of property (other than a loss in case of a distribution in corporate liquidation), directly or indirectly, between persons specified in any of the paragraphs of subsection (b).

"(2) MATCHING OF DEDUCTION AND PAYEE INCOME ITEM IN THE CASE OF EXPENSES AND INTEREST.—If—

"(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

"(B) at the close of the taxable year of the taxpayer for which (but for this paragraph) the amount would be deductible under this chapter, both the taxpayer and the person to whom the payment is to be made are persons specified in any of the paragraphs of subsection (b),

then any deduction allowable under this chapter in respect of such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph).".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 267 (relating to rule where last day of 2½-month period falls on Sunday, etc.) is hereby repealed.

(b) EXTENSION OF SECTION 267 TO CERTAIN RELATED ENTRIES.—

(1) PASS-THRU ENTITIES.—Section 267 is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(e) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(1) IN GENERAL.—In the case of any amount paid or incurred by, to, or on behalf of, a pass-thru entity, for purposes of applying subsection (a)(2)—

"(A) such entity,

"(B) in the case of—

"(i) a partnership, any person who owns (directly or indirectly) any capital interest or profits interest of such partnership, or

"(ii) an S corporation, any person who owns (directly or indirectly) any of the stock of such corporation,

"(C) any person who owns (directly or indirectly) any capital interest or profits interest of a partnership in which such entity owns (directly or indirectly) any capital interest or profits interest, and

"(D) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to a person described in subparagraph (B) or (C),

shall be treated as persons specified in a paragraph of subsection (b). Subparagraph (C) shall apply to a transaction only if such transaction is related either to the operations the partnership described in such subparagraph or to an interest in such partnership.

"(2) PASS-THRU ENTITY.—For purposes of this section, the term 'pass-thru entity' means—

"(A) a partnership, and

"(B) an S corporation.

"(3) CONSTRUCTIVE OWNERSHIP IN THE CASE OF PARTNERSHIPS.—For purposes of determining ownership of a capital interest or profits interest of a partnership, the principles of subsection (c) (other than paragraph (3)) shall apply.

"(4) SUBSECTION (a)(2) NOT TO APPLY TO CERTAIN GUARANTEED PAYMENTS OF PARTNERSHIPS.—In the case of any amount paid or incurred by a partnership, subsection (a)(2) shall not apply to the extent that section 707(c) applies to such amount.

"(5) EXCEPTION FOR CERTAIN EXPENSES AND INTEREST OF PARTNERSHIPS OWNING LOW-INCOME HOUSING.—

"(A) IN GENERAL.—This subsection shall not apply with respect to qualified expenses and interest paid or incurred by a partnership owning low-income housing to—

"(i) any qualified 5-percent or less partner of such partnership, or

"(ii) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to any qualified 5-percent or less partner of such partnership.

"(B) QUALIFIED 5-PERCENT OR LESS PARTNER.—For purposes of this paragraph, the term 'qualified 5-percent or less partner' means any partner who has (directly or indirectly) an interest of 5 percent or less in the aggregate capital and profits interests of the partnership but only if—

"(i) such partner owned the low-income housing at all times during the 2-year period ending on the date such housing was transferred to the partnership, or

"(ii) such partnership acquired the low-income housing pursuant to a purchase, assignment, or other transfer from the Department of Housing and Urban Development or any State or local housing authority.

"(C) QUALIFIED EXPENSES AND INTEREST.—For purposes of this paragraph, the term 'qualified expenses and interest' means any expense or interest incurred by the partnership with respect to low-income housing held by the partnership but—

"(i) only if the amount of such expense or interest (as the case may be) is unconditionally required to be paid by the partnership not later than 10 years after the date such amount was incurred, and

"(ii) in the case of such interest, only to the extent such interest accrues at an annual rate not in excess of 12 percent.

"(D) LOW-INCOME HOUSING.—For purposes of this paragraph, the term 'low-income housing' means—

"(i) any interest in low-income housing (as defined in paragraph (5) of section 189(e)), and

"(ii) any interest in a partnership owning low-income housing (as so defined).".

(2) CERTAIN CONTROLLED GROUPS.—

(A) Paragraph (3) of section 267(b) is amended to read as follows:

"(3) Two corporations which are members of the same controlled group (as defined in subsection (f));".

(B) Section 267 is amended by adding at the end thereof the following new subsection:

"(f) CONTROLLED GROUP DEFINED.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 1563(a), except that—

"(1) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(2) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.".

(3) CORPORATION AND PARTNERSHIP OWNED BY SAME PERSONS.—Paragraph (10) of section 267(b) is amended—

(A) by striking out "An S corporation" and inserting in lieu thereof "A corporation", and

(B) by striking out "the S corporation" and inserting in lieu thereof "the corporation".

(4) S CORPORATION AND C CORPORATION OWNED BY SAME PERSONS.—Paragraph (12) of section 267(b) is amended by striking out "the same individual" and inserting in lieu thereof "the same persons".

(5) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 170(a) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

(B) Clause (iii) of section 514(c)(9)(B) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)".

(C) Subsection (d) of section 1235 is amended—

(i) by striking out "section 267(b)" in the matter preceding paragraph (1) and inserting in lieu thereof "section 267(b) or persons described in section 707(b)",

(ii) by striking out "section 267 (b) and (c)" and inserting in lieu thereof "section 267 (b) and (c) and section 707(b)", and

(iii) by striking out "section 267(b)" in paragraph (1) and inserting in lieu thereof "section 267(b) or 707(b)".

(D) Subparagraph (F) of section 368(a)(2) is amended by striking out clause (viii).

(c) DEFERRAL (RATHER THAN DENIAL) OF LOSS FROM SALE OR EXCHANGE BETWEEN MEMBERS OF A CONTROLLED GROUP.—Section 267 (relating to losses, expenses and interest

with respect to transactions between related parties), as amended by this section, is amended by adding at the end thereof the following new subsection:

"(g) DEFERRAL OF LOSSES FROM SALES OR EXCHANGES BETWEEN MEMBERS OF CONTROLLED GROUPS.—In the case of any loss from a sale or exchange of property between members of the same controlled group to which subsection (a) (1) applies (determined without regard to this subsection)—

"(1) subsections (a) (1) and (d) shall not apply to such loss, but

"(2) no deduction shall be allowed with respect to such loss to the transferor of such property until the first taxable year of such transferor in which the transferee—

"(A) sells, exchanges or otherwise disposes of such property (or exchanged basis property with respect to such property) to a person other than a member of such controlled group (determined as of the time of the disposition), and

"(B) recognizes gain or loss on such disposition.".

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b)(1).—The amendments made by subsections (a) and (b)(1) shall apply to amounts allowable as deductions under chapter 1 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1983. For purposes of the preceding sentence, the allowability of a deduction shall be determined without regard to any disallowance or the postponement of deductions under section 267 of such Code.

(2) SUBSECTIONS (b)(2) AND (c).—The amendments made by subsections (b)(2) and (c) shall apply to transactions after September 29, 1983, in taxable years ending after such date.

(3) EXCEPTION FOR EXISTING INDEBTEDNESS, ETC.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any amount paid or incurred—

(i) on indebtedness incurred on or before September 29, 1983, or

(ii) pursuant to a contract which was binding on September 29, 1983, and at all times thereafter before the amount is paid or incurred.

(B) TREATMENT OF RENEGOTIATIONS, EXTENSIONS, ETC.—If any indebtedness (or contract described in subparagraph (A)) is renegotiated, extended, renewed, or revised after September 29, 1983, subparagraph (A) shall not apply to any amount paid or incurred on such indebtedness (or pursuant to such contract) after the date of such renegotiation, extension, renewal, or revision.

SEC. 181. LOSSES ON SALES AND EXCHANGES OF PROPERTY USED IN THE TRADE OR BUSINESS.

(a) GAINS EXCEED LOSSES.—Subsection (a) of section 1231 (relating to property used in the trade or business and involuntary conversions) is amended to read as follows:

"(a) CHARACTER OF GAINS AND LOSSES.—For purposes of this subtitle—

"(1) GAINS EXCEED LOSSES.—If during the taxable year, the sum of—

"(A) the recognized gains on sales or exchanges of property used in the trade or business, plus

"(B) the recognized gains from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of—

"(i) property used in the trade or business, or

"(ii) capital assets held for more than 1 year,

into other property or money,

exceeds the sum of the recognized losses from such sales, exchanges, and conversions, such gains shall be treated as long-term capital gains and such losses shall be treated as long-term capital losses.

"(2) LOSSES EXCEED GAINS.—

"(A) IN GENERAL.—If the sum of the gains described in paragraph (1) does not exceed the sum of the losses described in paragraph (1), such gains shall not be treated as gains from sales or exchanges of capital assets and such losses shall not be treated as losses from sales or exchanges of capital assets. The portion of such losses which—

"(i) exceeds the sums of such gains, and

"(ii) does not exceed the sum of the qualified Section 1231 gains of the taxpayer for the 3 taxable years preceding the taxable year,

shall not be allowed as a loss.

"(B) CARRYBACK OF LONG-TERM CAPITAL LOSSES.—Any losses incurred in the taxable year (hereinafter in this subparagraph referred to as the "loss year") which are disallowed by subparagraph (A) shall be a Section 1231 loss carryback to each of the 3 taxable years preceding the loss year. The entire amount of such losses shall be carried to the earliest of the taxable years to which such loss may be carried, and the portion of such loss which shall be carried to each of the other taxable years to which such loss may be carried shall be the excess, if any, of—

"(i) the entire amount of such loss, over

"(ii) the sum of the qualified section 1231 gains for each of the prior taxable years to which such loss may be carried.

For purposes of the preceding sentence, the net capital gain attributable to gains described in paragraph (1) for any such prior taxable year shall be computed without regard to the Section 1231 loss carryback for the loss year or for any taxable year thereafter.

"(C) NET CAPITAL GAIN TREATED AS ORDINARY INCOME TO THE EXTENT OF SECTION 1231 LOSSES.—Any net capital gain attributable to gains described in paragraph (1) for the taxable year shall not be treated as gain from the sale or exchange of capital assets to the extent such net capital gain is less than the sum of the qualified Section 1231 losses for the 3 taxable years preceding such taxable year which have not previously been taken into account under this subparagraph.

"(D) QUALIFIED SECTION 1231 GAIN.—For purposes of this paragraph, the term 'qualified Section 1231 gain' means the excess of—

"(i) the gains described in paragraph (1) for the taxable year, over

"(ii) the losses described in paragraph (1) for the taxable year.

"(E) QUALIFIED SECTION 1231 LOSS.—For purposes of this paragraph, the term 'qualified Section 1231 loss' means the excess of—

"(i) the losses described in paragraph (1) for the taxable year which are not disallowed for the taxable year by reason of subparagraph (A), over

"(ii) the gains described in paragraph (1) for the taxable year.".

(b) SPECIAL RULES.—Section 1231 is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATION OF WHETHER GAINS EXCEED LOSSES.—In determining under subsection (a) whether gains exceed losses—

"(A) the gains described in such subsection shall be taken into account only if, and to the extent, such gains are taken into account in computing gross income,

"(B) the losses described in such subsection shall be taken into account only if, and to the extent, such losses are taken into account in computing taxable income, and

"(C) section 1211 shall not apply.

"(2) LOSSES FROM DESTRUCTION, THEFT, ETC.—Losses (including losses not compensated for by insurance or otherwise) upon the destruction, in whole or in part, theft or seizure, or requisition or condemnation of—

"(A) property used in the trade or business, or

"(B) capital assets held for more than 1 year,

shall be considered losses from a compulsory or involuntary conversion.

"(3) CERTAIN INVOLUNTARY CONVERSIONS.—In the case of any involuntary conversion (subject to the provisions of subsection (a) but for this paragraph) arising from fire, storm, shipwreck, or other casualty, or from theft, of any property used in the trade or business or of any capital asset held for more than 1 year, subsection (a) shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6511 (d) (relating to limitations on credits or refunds) is amended—

(A) by striking out "or a capital loss carryback" each place it appears and inserting in lieu thereof ", a capital loss carryback, or a Section 1231 loss carryback",

(B) by striking out "or net capital loss" in subparagraph (A) and inserting in lieu thereof ", net capital loss, or loss described in section 1231 (a) (2) (B)",

(C) by striking out "OR CAPITAL LOSS CARRYBACK" in the paragraph heading and inserting in lieu thereof ", CAPITAL LOSS CARRYBACKS, OR SECTION 1231 LOSS CARRYBACKS",

(D) by striking out "such deduction or with respect to" in subparagraph (B) and inserting in lieu thereof "such deduction, with respect to",

(E) by striking out "capital loss, to the extent" in subparagraph (B) and inserting in lieu thereof "capital loss, with respect to the determination of a long-term capital loss and the effect of such long-term capital loss, to the extent", and

(F) by striking out "deduction or short-term capital loss" in subparagraph (B) and inserting in lieu thereof "deduction, short-term capital loss, or long-term capital loss".

(2) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or loss described in section 1231 (a) (2) (C)";

(B) by inserting "by a Section 1231 loss carryback provided by section 1231 (a) (2) (C)" after "by an employee stock ownership credit carryback provided in section 44G(b)(2)," in the first sentence of subsection (a); and

(C) by striking out "or a capital loss carryback (or" in the second sentence of subsection (a) and inserting in lieu thereof ", capital loss carryback, or Section 1231 loss carryback (or,".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 182. DEDUCTION DISALLOWED WHERE TAXPAYER USES PROPERTY SIMILAR TO PROPERTY OF THE TAXPAYER FOR PERSONAL USE.

(a) IN GENERAL.—Section 262 (relating to disallowance for personal, living, and family expenses) is amended—

(1) by striking out "Except" and inserting in lieu thereof:

"(a) IN GENERAL.—Except", and

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

"(b) PERSONAL USE OF PROPERTY SIMILAR TO PROPERTY OWNED BY THE TAXPAYER.—In any case in which—

"(1) a taxpayer uses property of another person for personal purposes and such other person (or any other person) uses similar property of the taxpayer for personal purposes, or

"(2) under regulations prescribed by the Secretary, the taxpayer is a member of a partnership, joint venture, or other entity one of the principal purposes of which is to allow members of such entity to acquire property and to use such property or similar property for personal purposes,

the taxpayer shall, for purposes of this section, be treated as using the taxpayer's property for personal purposes during any period the taxpayer is entitled to use such similar property for personal purposes.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the use of property after February 22, 1984, in taxable years ending after such date.

SEC. 183. FOREIGN EARNED INCOME EXCLUSION TREATED AS PREFERENCE ITEM.

(a) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding after paragraph (12) the following new paragraph:

"(13) EXCLUSION OF FOREIGN EARNED INCOME.—Any amount excluded from gross income for the taxable year under section 911(a)(1).".

(b) ALLOWANCE OF FOREIGN TAX CREDIT AGAINST MINIMUM TAX.—Paragraph (6) of section 911(d) (relating to denial of double benefits) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'tax imposed by this chapter' shall not include the tax imposed by section 55.".

(c) CONFORMING AMENDMENT.—The last sentence of section 57(a) is amended by striking out "and (12)(A)" and inserting in lieu thereof "(12)(A), and (13)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 184. SPECIAL RULE RELATING TO SALES OR EXCHANGES OF CERTAIN ECONOMIC INTERESTS IN COAL BETWEEN RELATED PARTIES.

(a) IN GENERAL.—The last sentence of section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is amended by inserting "or coal" after "iron ore" each place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dispositions after the date of the enactment of this Act.

SEC. 185. REPEAL OF EXCLUSION FOR DIVIDEND REINVESTMENT IN STOCK IN PUBLIC UTILITIES.

(a) REPEAL OF SECTION 305(e).—Section 305 (relating to distribution of stock and stock rights) is amended by striking out subsection (e) and redesignating subsection (f) as subsection (e).

(b) AMENDMENT OF SECTION 305(d).—Paragraph (1) of section 305(d) (defining stock) is amended by striking out "this section (other than subsection (e))" and inserting in lieu thereof "this section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1984, in taxable years ending after such date.

SEC. 186. ESTIMATED INCOME TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 6654(g) (defining tax for purposes of failure by individual to pay estimated income tax) is amended by striking out "(other than by section 55)".

(b) CONFORMING AMENDMENTS.—Subsection (d) of section 6654 (relating to exception to addition to tax for underpayment of estimated tax by individuals) is amended—

(1) by inserting "and alternative minimum taxable income" after "taxable income" each place it appears in paragraph (2), and

(2) by inserting ", the actual alternative minimum taxable income," after "actual taxable income" in paragraph (3).

(c) WAIVER OF IMPOSITION OF ADDITION TO TAX IN CERTAIN CASES.—Section 6654 (relating to failure by individuals to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

"(i) WAIVERS.—

"(A) IN GENERAL.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

"(4) WAIVER FOR NEWLY RETIRED OR DISABLED.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

"(A) the taxpayer—

"(i) retired after having attained at least 62 years of age, or

"(ii) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

"(B) such underpayment was due to reasonable cause and not to willful neglect.".

(d) TECHNICAL AMENDMENT.—Subsection (d) of section 6015 (defining estimated tax for individuals) is amended by striking out "(other than the tax imposed by section 55)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 187. REPEAL OF EXEMPTION FROM FEDERAL TAX OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) REPEAL OF EXEMPTION.—Subsection (d) of section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(d)) is amended—

(1) by striking out "by the United States,",

(2) by striking out "possession thereof," and inserting in lieu thereof "possession of the United States", and

(3) by striking out the last sentence.

(b) TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANKS WHICH ARE ALLOCABLE TO DIVIDENDS FROM THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—Subsection (a) of section 246 (relating to denial of dividends received deduction for dividends from certain corporations) is amended to read as follows:

"(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—

"(1) IN GENERAL.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DIVIDENDS OF FEDERAL HOME LOAN BANKS.—

"(A) DIVIDENDS OUT OF CURRENT EARNINGS AND PROFITS.—In the case of any dividend paid by any FHLB out of earnings and profits of the FHLB for the taxable year in which such dividend was paid, paragraph (1) shall not apply to that portion of such dividend which bears the same ratio to the total dividend as—

"(i) the dividends received by the FHLB from the FHLMC for such taxable year, bears to

"(ii) the total earnings and profits of the FHLB for such taxable year.

"(B) DIVIDENDS OUT OF ACCUMULATED EARNINGS AND PROFITS.—For purposes of subparagraph (A), in the case of any dividend which is paid out of any accumulated earnings and profits of any FHLB, paragraph (1) shall not apply to that portion of the dividend which bears the same ratio to the total dividend as—

"(i) the amount of dividends received by such FHLB from the FHLMC which are out of earnings and profits of the FHLMC—

"(I) for taxable years ending after December 31, 1984, and

"(II) which were not taken into account under subparagraph (A), bears to

"(ii) the sum of—

"(I) the retained earnings of such FHLB as of January 1, 1985, and

"(II) the total accumulated earnings and profits of the FHLB as of the time such dividend is paid which are allocable to periods after December 31, 1984.

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

"(i) FHLB AND FHLMC.—The terms 'FHLB' and 'FHLMC' mean any Federal Home Loan Bank or the Federal Home Loan Mortgage Corporation, respectively.

"(ii) TAXABLE YEAR.—The taxable year of an FHLB shall, except as provided in regulations prescribed by the Secretary, be treated as the calendar year.".

(c) TREATMENT OF NET OPERATING LOSSES OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—

(1) IN GENERAL.—Subparagraph (H) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended—

(A) by inserting ", or a net operating loss of the Federal Home Loan Mortgage Corporation for any taxable year beginning after December 31, 1984" after "1981",

(B) by striking out "the FNMA mortgage disposition loss (within the meaning of subsection (i))" in clause (i) and inserting in lieu thereof "the FNMA mortgage disposition loss or the FHLMC mortgage disposition loss (within the meaning of subsection (i)), respectively,", and

(C) by inserting "or the FHLMC mortgage disposition loss" after "FNMA mortgage disposition loss" in clause (ii).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 172(i)(1) is amended—

(i) by striking out "the term 'FNMA mortgage disposition loss'" and inserting in lieu thereof "the terms 'FNMA mortgage disposition loss' and 'FHLMC mortgage disposition loss'", and

(ii) by inserting "by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is appropriate" after "indebtedness" in clause (i).

(B) Paragraphs (1)(B) and (2) of section 172(i) are each amended by inserting "or FHLMC mortgage disposition loss" after "FNMA mortgage disposition loss".

(C) The headings for subsection (i) and paragraphs (1) and (1)(B) of subsection (i) of section 172 are each amended by inserting "or FHLMC mortgage disposition loss" after "loss".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1985.

(2) TRANSITION RULE FOR GAINS AND LOSSES.—The adjusted basis of any asset of the Federal Home Loan Mortgage Corporation held on the first day of the first taxable year of such Corporation to which this section applies shall—

(A) for purposes of determining any loss, be equal to the lesser of the adjusted basis of such asset or the fair market value of such asset as of such date, and

(B) for purposes of determining any gain, be equal to the higher of the adjusted basis of such asset or the fair market value of such asset as of such date.

(3) TREATMENT OF PARTICIPATION CERTIFICATES.—

(A) IN GENERAL.—Paragraph (2) shall not apply to any asset which was represented by any mortgage pool participation certificate or other similar interest in any mortgage.

(B) NONRECOGNITION FOR CERTAIN SALES.—If any gain is realized on the sale or exchange of an interest in any mortgage pool participation certificate or other similar interest after March 15, 1984, and before January 1, 1985, the gain shall not be recognized when realized, but shall be recognized on January 1, 1985.

(5) NO ACCUMULATED EARNINGS AND PROFITS.—For purposes of the Internal Revenue Code of 1954, the Federal Home Loan Mortgage Corporation shall be treated as having no accumulated earnings and profits as of January 1, 1985.

(6) ADJUSTED BASIS.—For purposes of paragraphs (2) and (3), the adjusted basis of any asset shall be determined under part II of subchapter O of the Internal Revenue Code of 1954.

SEC. 188. APPLICATION OF RELATED PARTY RULE TO SECTION 265(2).

(a) IN GENERAL.—Section 265(2) (relating to denial of deduction for interest relating to tax-exempt income), as amended by this Act, is amended—

(1) by inserting "of the taxpayer or a related person" after "indebtedness" the first place it appears, and

(2) by adding at the end thereof the following new sentence: "For purposes of this paragraph, the term 'related person' has the meaning given such term by section 1239(b).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to indebtedness incurred after the date of the enactment of this Act, in taxable years ending after such date.

(2) DEMAND LOANS.—In the case of a demand loan in effect on the date of the enactment of this Act, the amendments made by this section shall apply to any indebtedness continued under such loan after the 60th day after such date.

TITLE II—LIFE INSURANCE PROVISIONS

SEC. 201. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Life Insurance Tax Act of 1984".

(b) TABLE OF SECTIONS FOR PART I OF SUBCHAPTER L.—Under the amendment to part I of subchapter L made by section 211(a), the subparts and sections of such part I will be as follows:

PART I—LIFE INSURANCE COMPANIES

SUBPART A—TAX IMPOSED

Sec. 801. Tax imposed.

SUBPART B—LIFE INSURANCE GROSS INCOME

Sec. 803. Life insurance gross income.

SUBPART C—LIFE INSURANCE DEDUCTIONS

Sec. 804. Life insurance deductions.
Sec. 805. General deductions.
Sec. 806. Special deductions.
Sec. 807. Rules for certain reserves.
Sec. 808. Policyholder dividends deduction.
Sec. 809. Reduction in certain deductions of mutual life insurance companies.
Sec. 810. Operations loss deduction.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec. 811. Accounting provisions.
Sec. 812. Definition of company's share and policyholders' share.
Sec. 813. Foreign life insurance companies.
Sec. 814. Contiguous country branches of domestic life insurance companies.
Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

SUBPART E—DEFINITIONS AND SPECIAL RULES

Sec. 816. Life insurance company defined.
Sec. 817. Treatment of variable contracts.
Sec. 818. Other definitions and special rules.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

SEC. 211. AMENDMENT OF SUBCHAPTER L.

(a) GENERAL RULE.—Part I of subchapter L of chapter 1 is amended to read as follows:

"PART I—LIFE INSURANCE COMPANIES

"Subpart A. Tax imposed.
"Subpart B. Life insurance gross income.
"Subpart C. Life insurance deductions.
"Subpart D. Accounting, allocation, and foreign provisions.
"Subpart E. Definitions and special rules.

"Subpart A—Tax Imposed

"Sec. 801. Tax imposed.

"SEC. 801. TAX IMPOSED.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the life insurance company taxable income of every life insurance company. Such tax shall consist of a tax computed as provided in section 11 as though the life insurance company taxable income were the taxable income referred to in section 11.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—

"(A) IN GENERAL.—If a life insurance company has a net capital gain for the taxable year, then (in lieu of the tax imposed by paragraph (1)), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)).

"(B) AMOUNT OF TAX.—The amount of the tax imposed by this paragraph shall be the sum of—

"(i) a partial tax, computed as provided by paragraph (1), on the life insurance company taxable income reduced by the amount of the net capital gain, and

"(ii) an amount determined as provided in section 1201(a) on such net capital gain.

"(C) NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT IN DETERMINING SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of subparagraph (B)(i), the amounts allowable as deductions under paragraphs (2) and (3) of section 804 shall be determined by reducing the tentative LICTI by the amount of the net capital gain (determined without regard to items attributable to noninsurance businesses).

"(b) LIFE INSURANCE COMPANY TAXABLE INCOME.—For purposes of this part, the term 'life insurance company taxable income' means—

"(1) life insurance gross income, reduced by

"(2) life insurance deductions.

"(c) LIFE INSURANCE COMPANY TAXABLE INCOME INCREASED BY DISTRIBUTIONS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

"For provision increasing life insurance company taxable income for distributions to shareholders from pre-1984 policyholders surplus account, see section 815.

"Subpart B—Life Insurance Gross Income

"Sec. 803. Life insurance gross income.

"SEC. 803. LIFE INSURANCE GROSS INCOME.

"(a) IN GENERAL.—For purposes of this part, the term 'life insurance gross income' means the sum of the following amounts:

"(1) PREMIUMS.—

"(A) The gross amount of premiums and other consideration on insurance and annuity contracts, less

"(B) return premiums, and premiums and other consideration arising out of indemnity reinsurance.

"(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 807(a) to be taken into account under this paragraph.

"(3) OTHER AMOUNTS.—All amounts not includible under paragraph (1) or (2) which under this subtitle are includible in gross income.

"(b) SPECIAL RULES FOR PREMIUMS.—

"(1) CERTAIN ITEMS INCLUDED.—For purposes of subsection (a)(1)(A), the term 'gross amount of premiums and other consideration' includes—

"(A) advance premiums,

"(B) deposits,

"(C) fees,

"(D) assessments,

"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

"(F) the amount of policyholder dividends reimbursable to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts.

"(2) POLICYHOLDER DIVIDENDS EXCLUDED FROM RETURN PREMIUMS.—For purposes of subsection (a)(1)(B)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'return premiums' does not include any policyholder dividends.

"(B) EXCEPTION FOR INDEMNITY REINSURANCE.—Subparagraph (A) shall not apply to amounts of premiums or other consideration returned to another life insurance company in respect of indemnity reinsurance.

"Subpart C—Life Insurance Deductions

"SEC. 804. LIFE INSURANCE DEDUCTIONS.

"For purposes of this part, the term 'life insurance deductions' means—

"(1) the general deductions provided in section 805,

"(2) the special life insurance company deduction determined under section 806(a), and

"(3) the small life insurance company deduction (if any) determined under section 806(b).

"SEC. 805. GENERAL DEDUCTIONS.

"(a) GENERAL RULE.—For purposes of this part, there shall be allowed the following deductions:

"(1) DEATH BENEFITS, ETC.—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

"(2) INCREASES IN CERTAIN RESERVES.—The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

"(3) POLICYHOLDER DIVIDENDS.—The deduction for policyholder dividends (determined under section 808(c)).

"(4) DIVIDENDS RECEIVED BY COMPANY.—

"(A) IN GENERAL.—The deductions provided by sections 243, 244, and 245 (as modified by subparagraph (B))—

"(i) for 100 percent dividends received, and

"(ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.

"(B) APPLICATION OF SECTION 246(b).—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the life insurance company taxable income, computed without regard to—

"(i) the special life insurance company deduction and the small life insurance company deduction,

"(ii) the operations loss deduction provided by section 810,

"(iii) the deductions allowed by sections 243(a)(1), 244(a), and 245, and

"(iv) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

"(C) 100 PERCENT DIVIDEND.—For purposes of subparagraph (A), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not include any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).

"(D) CERTAIN DIVIDENDS RECEIVED IN THE CASE OF FOREIGN CORPORATIONS.—Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5).

"(5) OPERATIONS LOSS DEDUCTION.—The operations loss deduction (determined under section 810).

"(6) ASSUMPTION BY ANOTHER PERSON OF LIABILITIES UNDER INSURANCE, ETC., CONTRACTS.—The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

"(7) REIMBURSABLE DIVIDENDS.—The amount of policyholder dividends which—

"(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

"(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

"(8) OTHER DEDUCTIONS.—Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

"(b) MODIFICATIONS.—The modifications referred to in subsection (a)(8) are as follows:

"(1) INTEREST.—In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

"(2) BAD DEBTS.—Section 166(c) (relating to reserve for bad debts) shall not apply.

"(3) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—In applying section 170—

"(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

"(i) the deduction provided by section 170,

"(ii) the deductions provided by paragraphs (3) and (4) of subsection (a),

"(iii) the special life insurance company deduction and the small life insurance company deduction,

"(iv) any operations loss carryback to the taxable year under section 810, and

"(v) any capital loss carryback to the taxable year under section 1212(a)(1), and

"(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

"(4) AMORTIZABLE BOND PREMIUM.—

"(A) IN GENERAL.—Section 171 shall not apply.

"(B) CROSS REFERENCE.—

"For rules relating to amortizable bond premium, see section 811(b).

"(5) NET OPERATING LOSS DEDUCTION.—Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

"(6) DIVIDENDS RECEIVED DEDUCTION.—Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243, 244, and 245 shall not be allowed.

"SEC. 806. SPECIAL DEDUCTIONS.

"(a) SPECIAL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of section 804, the special life insurance company deduction for any taxable year is 20 percent of the excess of the tentative LICTI for such taxable year over the small life insurance company deduction (if any).

"(b) SMALL LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—For purposes of section 804, the small life insurance company deduction for any taxable year is 60 percent of so much of the tentative LICTI for such taxable year as does not exceed $3,000,000.

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small life insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative LICTI for such taxable year as exceeds $3,000,000.

"(3) SMALL LIFE INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small life insurance company deduction shall not be allowed for any taxable year to any life insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(c) TENTATIVE LICTI.—For purposes of this part—

"(1) IN GENERAL.—The term 'tentative LICTI' means life insurance company taxable income determined without regard to—

"(A) the special life insurance company deduction, and

"(B) the small life insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative LICTI for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESS.—

"(A) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(B) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if it is of a type traditionally carried on by life insurance companies and—

"(i) is carried on for investment purposes but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(ii) involves the performance of administrative services in connection with plans providing life insurance, pension, or accident and health benefits.

"(d) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(1) SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (a) and (b)—

"(A) all life insurance companies which are members of the same controlled group shall be treated as 1 life insurance company, and

"(B) any special life insurance company deduction and any small life insurance company deduction determined with respect to such group shall be allocated among the life insurance companies which are members of such group in proportion to their respective tentative LICTI's.

"(2) NONLIFE INSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (b)(3), all members of the same controlled group (whether or not life insurance companies) shall be treated as 1 company.

"(3) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(4) ELECTION WITH RESPECT TO LOSS FROM OPERATIONS OF MEMBER OF GROUP.—

"(A) IN GENERAL.—Any life insurance company which is a member of a controlled group may elect to have its loss from operations for any taxable year not taken into account for purposes of determining the amount of the special life insurance company deduction for the life insurance companies which are members of such group and which do not file a consolidated return with such life insurance company for the taxable year.

"(B) LIMITATION ON AMOUNT OF LOSS WHICH MAY OFFSET NONLIFE INCOME.—In the case of that portion of any loss from operations for any taxable year of a life insurance company which (but for subparagraph (A)) would have reduced tentative LICTI of other life insurance companies for such taxable year—

"(i) only 80 percent of such portion may be used to offset nonlife income, and

"(ii) to the extent such portion is used to offset nonlife income, the loss shall be treated as used at a rate of $1 for each 80 cents of income so offset.

For purposes of the preceding sentence, any such portion shall be used before the remaining portion of the loss from the same year and shall be treated as first being offset against income which is not nonlife income.

"(C) NONLIFE INCOME.—

"(i) IN GENERAL.—The term 'nonlife income' means the portion of the life insurance company's taxable income for which the special life insurance company deduction was not allowable and any income of a corporation not subject to tax under this part.

"(ii) SPECIAL RULE FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—In the case of a taxable year beginning before January 1, 1984, all life insurance company taxable income shall be treated as nonlife income.

"(5) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection.

"(e) ELECTION OF THE ALTERNATIVE LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—Any life insurance company may elect for the taxable year to treat as the aggregate of the special life insurance company deduction under subsection (a) and the small life insurance company deduction under subsection (b) for such year the amount of the deduction computed under this subsection.

"(2) AMOUNT OF DEDUCTION.—

"(A) IN GENERAL.—The amount of the deduction computed under this subsection for any taxable year is the sum of—

"(i) an amount equal to 20 percent of the life insurance company's qualified first-year premiums for the taxable year, multiplied by the phase-out percentage for the taxable year, plus

"(ii) an amount equal to the aggregate deductions which (but for the election under this subsection) would be allowed under subsections (a) and (b) for the taxable year, multiplied by the phase-in percentage for such year.

"(B) PHASE-OUT AND PHASE-IN PERCENTAGES.—The phase-out and phase-in percentages for any taxable year shall be determined in accordance with the following table:

"For taxable years beginning in:	The phase-out percentage is	The phase-in percentage is
1984	80	20
1985	60	40
1986	40	60
1987	20	80
1988 or thereafter	0	100

"(3) QUALIFIED FIRST-YEAR PREMIUMS.—

"(A) IN GENERAL.—For purposes of this paragraph, the term 'qualified first-year premium' means (i) the premiums received by the life insurance company during the taxable year for the first year of coverage under any newly issued qualified contract (which was directly issued by such company with respect to the life or health of an individual during the taxable year), reduced by (ii) premiums paid for reinsurance ceded with respect to such contracts.

"(B) MAXIMUM PREMIUM TAKEN INTO ACCOUNT.—The amount taken into account under subparagraph (A) with respect to the first year of coverage under any contract shall not exceed 200 percent of the net level premium required for the benefits provided under the contract, computed by assuming that the contract extends for and premiums are payable until the insured attains age 95 or, if later, the maturity date of the contract.

"(C) NEWLY ISSUED.—A contract shall be treated as newly issued only if—

"(i) the contract is not a renewal of another contract, and

"(ii) such contract does not provide coverage to an individual who was covered (during the taxable year or the preceding taxable year) under another contract of the same type issued by such company or by a company which is in the same controlled group (within the meaning of subsection (d)(3)) as such company.

"(D) QUALIFIED CONTRACT.—For purposes of this paragraph, the term 'qualified contract' means any individual ordinary life insurance or individual noncancellable accident and health insurance contract, and does not include—

"(i) any annuity contract,

"(ii) any group contract,

"(iii) any credit life contract,

"(iv) any single premium contract, and

"(v) any contract having the term of one year or less.

"(4) SPECIAL RULES RELATING TO ELECTION.—An election may be made under paragraph (1) for any taxable year only if it is made for the taxable year by all life insurance companies which are members of the same controlled group (within the meaning of subsection (d)(3)) as the electing company. Any such election, once made, shall apply to all taxable years beginning before 1988 unless such company revokes such election for any taxable year. A revocation of such election by one member of a controlled group (within the meaning of subsection (d)(3)) shall be treated as a revocation of such election by all members of such group. A company which has revoked its election under this subsection for any taxable year may not make an election under this subsection for any succeeding taxable year.

"(5) DEDUCTION ALLOWED ONLY AGAINST LIFE INSURANCE INCOME.—Under regulations prescribed by the Secretary, if the amount of the deduction under this subsection creates or increases a loss from operations for a life insurance company for any taxable year—

"(A) the portion of such loss so created or increased shall not be allowed as an offset against nonlife income (as defined in subsection 806(d)(4)(C)) of such company or any other company, and

"(B) paragraph (4) of subsection (d) shall not apply.

"SEC. 807. RULES FOR CERTAIN RESERVES.

"(a) DECREASE TREATED AS GROSS INCOME.—If for any taxable year—

"(1) the opening balance for the items described in subsection (c), exceeds

"(2)(A) the closing balance for such items, reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year,

such excess shall be included in gross income under section 803(a)(2).

"(b) INCREASE TREATED AS DEDUCTION.—If for any taxable year—

"(1)(A) the closing balance for the items described in subsection (c), reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year, exceeds

"(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

"(c) ITEMS TAKEN INTO ACCOUNT.—The items referred to in subsections (a) and (b) are as follows:

"(1) The life insurance reserves (as defined in section 816(b)).

"(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

"(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

"(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

"(5) Premiums received in advance, and liabilities for premium deposit funds.

"(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is the higher of the prevailing State assumed interest rate as of the time such obligation first did not involve life, accident, or health contingencies or the rate of interest assumed by the company (as of such time) in determining the guaranteed benefit.

"(d) METHOD OF COMPUTING RESERVES FOR PURPOSES OF DETERMINING INCOME.—

"(1) IN GENERAL.—For purposes of this part (other than section 816), the amount of the life insurance reserves for any contract shall be the greater of—

"(A) the net surrender value of such contract, or

"(B) the reserve determined under paragraph (2).

In no event shall the reserve determined under the preceding sentence for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining statutory reserves (as defined in section 809(b)(4)(B)).

"(2) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined by using—

"(A) the tax reserve method applicable to such contract,

"(B) the prevailing State assumed interest rate, and

"(C) the prevailing commissioners' standard tables for mortality and morbidity adjusted as appropriate to reflect the risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

"(3) TAX RESERVE METHOD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax reserve method' means—

"(i) LIFE INSURANCE CONTRACTS.—The CRVM in the case of a contract covered by the CRVM.

"(ii) ANNUITY CONTRACTS.—The CARVM in the case of a contract covered by the CARVM.

"(iii) NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—In the case of any noncancellable accident and health insurance contract, a 2-year full preliminary term method.

"(iv) OTHER CONTRACTS.—In the case of any contract not described in clause (i), (ii), or (iii)—

"(I) the reserve method prescribed by the National Association of Insurance Commissioners which covers such contract (as of the date of issuance), or

"(II) if no reserve method has been prescribed by the National Association of Insurance Commissioners which covers such contract, a reserve method which is consistent with the reserve method required under clause (i), (ii), or (iii) or under subclause (I) of this clause as of the date of the issuance of such contract (whichever is most appropriate).

"(B) DEFINITION OF CRVM AND CARVM.—For purposes of this paragraph—

"(i) CRVM.—The term 'CRVM' means the Commissioners' Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(ii) CARVM.—The term 'CARVM' means the Commissoners' Annuities Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(C) NO ADDITIONAL RESERVE DEDUCTION ALLOWED FOR DEFICIENCY RESERVES.—Nothing in any reserve method described under this paragraph shall permit any increase in the reserve because the net level premium (computed on the basis of assumptions required under this subsection) exceeds the actual premiums or other consideration charged for the benefit.

"(4) PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of the nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

"(B) WHEN RATE DETERMINED.—Except as provided in subparagraph (C), the prevailing State assumed rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

"(C) ELECTION FOR NONANNUITY CONTRACTS.—In the case of a contract other than an annuity contract, the issuer may elect (at such time and in such manner as the Secretary shall by regulations prescribe) to determine the prevailing State assumed rate as of the beginning of the calendar year preceding the calendar year in which the contract was issued.

"(5) PREVAILING COMMISSIONERS' STANDARD TABLES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing commissioners' standard tables' means, with respect to any contract, the most recent commissioners' standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued.

"(B) INSURER MAY USE OLD TABLES FOR 3 YEARS WHEN TABLES CHANGE.—If the prevailing commissioners' standard tables as of the beginning of any calendar year (hereinafter in this subparagraph referred to as the 'year of change') is different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

"(C) SPECIAL RULE FOR CONTRACTS FOR WHICH THERE ARE NO COMMISSIONERS' STANDARD TABLES.—If there are no commissioners' standard tables applicable to any contract when it is issued, the mortality and morbidity tables used for purposes of paragraph (2)(C) shall be determined under regulations prescribed by the Secretary.

"(D) SPECIAL RULE FOR CONTRACTS ISSUED BEFORE 1948.—If—

"(i) a contract was issued before 1948, and

"(ii) there were no commissioners' standard tables applicable to such contract when it was issued,

the mortality and morbidity tables used in computing statutory reserves for such contracts shall be used for purposes of paragraph (2)(C).

"(E) SPECIAL RULE WHERE MORE THAN 1 TABLE OR OPTION APPLICABLE.—If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) which meet the requirements of subparagraph (A) (or, where applicable, subparagraph (B) or (C)), the table (and option thereunder) which generally yields the lowest reserves shall be used for purposes of paragraph (2)(C).

"(e) SPECIAL RULES FOR COMPUTING RESERVES.—

"(1) NET SURRENDER VALUE.—For purposes of this section—

"(A) IN GENERAL.—The net surrender value of any contract shall be determined—

"(i) with regard to any penalty or charge which would be imposed on surrender, but

"(ii) without regard to any market value adjustment on surrender.

"(B) SPECIAL RULE FOR PENSION PLAN CONTRACTS.—In the case of a pension plan contract, the balance in the policyholder's fund (determined without regard to any market value adjustment) shall be treated as the net surrender value of such contract.

"(2) ISSUANCE DATE IN CASE OF GROUP CONTRACTS.—For purposes of this section, in the case of a group contract, the date on which such contract is issued shall be the date as of which the master plan is issued (or, with respect to a benefit guaranteed to a participant after such date, the date as of which such benefit is guaranteed).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) QUALIFIED SUPPLEMENTAL BENEFITS TREATED SEPARATELY.—For purposes of this part, the amount of the life insurance reserve for any qualified supplemental benefit—

"(i) shall be computed separately as though such benefit were under a separate contract, and

"(ii) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(B) SUPPLEMENTAL BENEFITS WHICH ARE NOT QUALIFIED SUPPLEMENTAL BENEFITS.—In the case of any supplemental benefit described in subparagraph (D) which is not a qualified supplemental benefit, the amount of the reserve determined under paragraph (2) of subsection (d) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(C) QUALIFIED SUPPLEMENTAL BENEFIT.—For purposes of this paragraph, the term 'qualified supplemental benefit' means any supplemental benefit described in subparagraph (D) if—

"(i) there is a separately identified premium or charge for such benefit, and

"(ii) any net surrender value under the contract attributable to any other benefit is not available to fund such benefit.

"(D) SUPPLEMENTAL BENEFITS.—For purposes of this paragraph, the supplemental benefits described in this subparagraph are any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,
"(iii) convertibility,
"(iv) disability waiver benefit, or
"(v) other benefit prescribed by regulations,

which is supplemental to a contract for which there is a reserve described in subsection (c).

"(4) CERTAIN CONTRACTS ISSUED BY FOREIGN BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case of any qualified foreign contract, the amount of the reserve shall be not less than the minimum reserve required by the laws, regulations, or administrative guidance of the regulatory authority of the foreign country referred to in subparagraph (B) (but not to exceed the net level reserves for such contract).

"(B) QUALIFIED FOREIGN CONTRACT.—For purposes of subparagraph (A), the term 'qualified foreign contract' means any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company if—

"(i) such contract is issued on the life or health of a resident of such country,

"(ii) such domestic life insurance company was required by such foreign country (as of the time it began operations in such country) to operate in such country through a branch, and

"(iii) such foreign country is not contiguous to the United States.

"(5) TREATMENT OF SUBSTANDARD RISKS.—

"(A) SEPARATE COMPUTATION.—Except to the extent provided in regulations, the amount of the life insurance reserve for any qualified substandard risk shall be computed separately under subsection (d)(1) from any other reserve under the contract.

"(B) QUALIFIED SUBSTANDARD RISK.—For purposes of subparagraph (A), the term 'qualified substandard risk' means any substandard risk if—

"(i) the insurance company maintains a separate reserve for such risk,

"(ii) there is a separately identified premium or charge for such risk,

"(iii) the amount of the net surrender value under the contract is not increased or decreased by reason of such risk, and

"(iv) the net surrender value under the contract is not regularly used to pay premium charges for such risk.

"(C) LIMITATION ON AMOUNT OF LIFE INSURANCE RESERVE.—The amount of the life insurance reserve determined for any qualified substandard risk shall in no event exceed the sum of the separately identified premiums charged for such risk plus interest less mortality charges for such risk.

"(D) LIMITATION ON AMOUNT OF CONTRACTS TO WHICH PARAGRAPH APPLIES.—The aggregate amount of insurance in force under contracts to which this paragraph applies shall not exceed 10 percent of the insurance in force (other than term insurance) under life insurance contracts of the company.

"(6) SPECIAL RULES FOR CONTRACTS ISSUED BEFORE JANUARY 1, 1989, UNDER EXISTING PLANS OF INSURANCE, WITH TERM INSURANCE OR ANNUITY BENEFITS.—For purposes of this part—

"(A) IN GENERAL.—In the case of a life insurance contract issued before January 1, 1989, under an existing plan of insurance, the life insurance reserve for any benefit to which this paragraph applies shall be computed separately under subsection (d)(1) from any other reserve under the contract.

"(B) BENEFITS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph applies to any term insurance or annuity benefit with respect to which the requirements of clauses (i) and (ii) of paragraph (3)(C) are met.

"(C) EXISTING PLAN OF INSURANCE.—For purposes of this paragraph, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company using such contract in one or more States before January 1, 1984, and is on file in the appropriate State for such contract.

"(f) ADJUSTMENT FOR CHANGE IN COMPUTING RESERVES.—

"(1) 10-YEAR SPREAD.—

"(A) IN GENERAL.—For purposes of this part, if the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between—

"(i) the amount of the item at the close of the taxable year, computed on the new basis, and

"(ii) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account under the method provided in subparagraph (B).

"(B) METHOD.—The method provided in this subparagraph is as follows:

"(i) if the amount determined under subparagraph (A)(i) exceeds the amount determined under subparagraph (A)(ii), 1/10 of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a deduction under section 805(a)(2); or

"(ii) if the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i), 1/10 of such excess shall be included in gross income, for each of the 10 succeeding taxable years, under section 803(a)(2).

"(2) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if for any taxable year the taxpayer is not a life insurance company, the balance of any adjustments under this subsection shall be taken into account for the preceding taxable year.

"SEC. 808. POLICYHOLDER DIVIDENDS DEDUCTION.

"(a) POLICYHOLDER DIVIDEND DEFINED.—For purposes of this part, the term 'policyholder dividend' means any dividend or similar distribution to policyholders in their capacity as such.

"(b) CERTAIN AMOUNTS INCLUDED.—For purposes of this part, the term 'policyholder dividend' includes—

"(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

"(2) excess interest,

"(3) premium adjustments, and

"(4) experience-rated refunds.

"(c) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—Except as limited by paragraph (2), the deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

"(2) REDUCTION IN CASE OF MUTUAL COMPANIES.—In the case of a mutual life insurance company, the deduction for policyholder dividends for any taxable year shall be reduced by the amount determined under section 809.

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

"(1) EXCESS INTEREST.—The term 'excess interest' means any amount in the nature of interest—

"(A) paid or credited to a policyholder in his capacity as such, and

"(B) determined at a rate in excess of the prevailing State assumed interest rate for such contract.

"(2) PREMIUM ADJUSTMENT.—The term 'premium adjustment' means any reduction in the premium under an insurance or annuity contract which (but for the reduction) would have been required to be paid under the contract.

"(3) EXPERIENCE-RATED REFUND.—The term 'experience-rated refund' means any refund or credit based on the experience of the contract or group involved.

"(e) TREATMENT OF POLICYHOLDER DIVIDENDS.—For purposes of this part, any policyholder dividend which—

"(1) increases the cash surrender value of the contract or other benefits payable under the contract, or

"(2) reduces the premium otherwise required to be paid,

shall be treated as paid to the policyholder and returned by the policyholder to the company as a premium.

"SEC. 809. REDUCTION IN CERTAIN DEDUCTIONS OF MUTUAL LIFE INSURANCE COMPANIES.

"(a) GENERAL RULE.—

"(1) POLICYHOLDER DIVIDENDS.—In the case of any mutual life insurance company, the amount of the deduction allowed under section 808 shall be reduced (but not below zero) by the differential earnings amount.

"(2) REDUCTION IN RESERVE DEDUCTION IN CERTAIN CASES.—In the case of any mutual life insurance company, if the differential earnings amount exceeds the amount allowable as a deduction under section 808 for the taxable year (determined without regard to this section), such excess shall be taken into account under subsections (a) and (b) of section 807.

"(3) DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this section, the term 'differential earnings amount' means, with respect to any taxable year, an amount equal to the product of—

"(A) the life insurance company's average equity base for the taxable year, multiplied by

"(B) the differential earnings rate for such taxable year.

"(b) AVERAGE EQUITY BASE.—For purposes of this section—

"(1) IN GENERAL.—The term 'average equity base' means, with respect to any taxable year, the average of—

"(A) the equity base determined as of the close of the taxable year, and

"(B) the equity base determined as of the close of the preceding taxable year.

"(2) EQUITY BASE.—The term 'equity base' means an amount equal to—

"(A) the surplus and capital,

"(B) adjusted as provided in paragraphs (3), (4), (5), and (6) of this subsection.

"(3) INCREASE FOR NONADMITTED FINANCIAL ASSETS.—

"(A) IN GENERAL.—The amount of the surplus and capital shall be increased by the amount of the nonadmitted financial assets.

"(B) NONADMITTED FINANCIAL ASSETS.—For purposes of subparagraph (A), the term 'nonadmitted financial asset' means any nonadmitted asset of the company which is—

"(i) a bond,

"(ii) stock,

"(iii) real estate,

"(iv) a mortgage loan on real estate, or

"(v) any other invested asset.

"(4) INCREASE WHERE STATUTORY RESERVES EXCEED TAX RESERVES.—

"(A) IN GENERAL.—If—

"(i) the aggregate amount of statutory reserves, exceeds

"(ii) the aggregate amount of tax reserves,

the amount of the surplus and capital shall be increased by the amount of such excess.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) STATUTORY RESERVES.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c).

"(ii) TAX RESERVES.—The term 'tax reserves' means the aggregate of the items described in section 807(c) as determined for purposes of section 807.

"(5) INCREASE BY AMOUNT OF CERTAIN OTHER RESERVES.—The amount of the surplus and capital shall be increased by the sum of—

"(A) the amount of any mandatory securities valuation reserve,

"(B) the amount of any deficiency reserve, and

"(C) the amount of any voluntary reserve not described in subparagraph (A) or (B).

"(6) ADJUSTMENT FOR NEXT YEAR'S POLICYHOLDER DIVIDENDS.—The amount of the surplus and capital shall be increased by 50 percent of the amount of any provision for policyholder dividends (or other similar liability) payable in the following taxable year.

"(c) DIFFERENTIAL EARNINGS RATE.—For purposes of this section, the differential earnings rate for any taxable year is the excess of—

"(1) the imputed earnings rate for the taxable year, over

"(2) the average mutual earnings rate for the second calendar year preceding the calendar year in which the taxable year begins.

"(d) IMPUTED EARNINGS RATE.—

"(1) IN GENERAL.—For purposes of this section, the imputed earnings rate for any taxable year is—

"(A) 16.5 percent in the case of taxable years beginning in 1984, and

"(B) in the case of taxable years beginning after 1984, an amount which bears the same ratio to 16.5 percent as the current stock earnings rate for the taxable year bears to the base period stock earnings rate.

"(2) CURRENT STOCK EARNINGS RATE.—For purposes of this subsection, the term 'current stock earnings rate' means, with respect to any taxable year, the average of the stock earnings rates determined under paragraph (4) for the 3 calendar years preceding the calendar year in which the taxable year begins.

"(3) BASE PERIOD STOCK EARNINGS RATE.—For purposes of this subsection, the base period stock earnings rate is the average of the stock earnings rates determined under paragraph (4) for calendar years 1981, 1982, and 1983.

"(4) STOCK EARNINGS RATE.—

"(A) IN GENERAL.—For purposes of this subsection, the stock earnings rate for any calendar year is the numerical average of the earnings rates of the 50 largest stock companies.

"(B) EARNINGS RATE.—For purposes of subparagraph (A), the earnings rate of any stock company is the percentage (determined by the Secretary) which—

"(i) the statement gain or loss from operations for the calendar year of such company, is of

"(ii) such company's average equity base for such year.

"(C) 50 LARGEST STOCK COMPANIES.—For purposes of this paragraph, the term '50 largest stock companies' means a group (as determined by the Secretary) of stock life insurance companies which consists of the 50 largest stock life insurance companies which are subject to tax under this chapter.

"(D) TREATMENT OF AFFILIATED GROUPS.—For purposes of this paragraph, all stock life insurance companies which are members of the same affiliated group shall be treated as one stock life insurance company.

"(e) AVERAGE MUTUAL EARNINGS RATE.—For purposes of this section, the average mutual earnings rate for any calendar year is the percentage (determined by the Secretary) which—

"(1) the aggregate statement gain or loss from operations for such year of mutual life insurance companies, is of

"(2) their aggregate average equity bases for such year.

"(f) RECOMPUTATION IN SUBSEQUENT YEAR.—

"(1) INCLUSION IN INCOME WHERE RECOMPUTED AMOUNT GREATER.—In the case of any mutual life insurance company, if—

"(A) the recomputed differential earnings amount for any taxable year, exceeds

"(B) the differential earnings amount determined under this section for such taxable year,

such excess shall be included in life insurance gross income for the succeeding taxable year.

"(2) DEDUCTION WHERE RECOMPUTED AMOUNT SMALLER.—In the case of any mutual life insurance company, if—

"(A) the differential earnings amount determined under this section for any taxable year, exceeds

"(B) the recomputed differential earnings amount for such taxable year,

such excess shall be allowed as a life insurance deduction for the succeeding taxable year.

"(3) RECOMPUTED DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this subsection, the term 'recomputed differential earnings amount' means, with respect to any taxable year, the amount which would be the differential earnings amount for such taxable year if the average mutual earnings rate taken into account under subsection (c)(2) were the average mutual earnings rate for the calendar year in which the taxable year begins.

"(4) SPECIAL RULE WHERE COMPANY CEASES TO BE MUTUAL LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if—

"(A) a life insurance company is a mutual life insurance company for any taxable year, but

"(B) such life insurance company is not a mutual life insurance company for the succeeding taxable year,

any adjustment under paragraph (1) or (2) by reason of the recomputed differential earnings amount for the first of such taxable years shall be taken into account for the first of such taxable years.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement—

"(A) determined with regard to policyholder dividends (as defined in section 808) but without regard to Federal income taxes,

"(B) determined on the basis of the tax reserves rather than statutory reserves, and

"(C) properly adjusted for realized capital gains and losses and other relevant items.

"(2) OTHER TERMS.—Except as otherwise provided in this section, the terms used in this section shall have the same respective meanings as when used in the annual statement.

"(3) DETERMINATIONS BASED ON AMOUNT SET FORTH IN ANNUAL STATEMENT.—Except as otherwise provided in this section or in regulations, all determinations under this section shall be made on the basis of the amounts required to be set forth on the annual statement.

"(4) ANNUAL STATEMENT.—The term 'annual statement' means the annual statement for life insurance companies approved by the National Association of Insurance Commissioners.

"(5) REDUCTION IN EQUITY BASE FOR PORTION OF EQUITY ALLOCABLE TO LIFE INSURANCE BUSINESS IN NONCONTIGUOUS WESTERN HEMISPHERE COUNTRIES.—The equity base of any mutual life insurance company shall be reduced by an amount equal to the portion of the equity base attributable to the life insurance business multiplied by a fraction—

"(A) the numerator of which is the portion of the tax reserves which is allocable to life insurance contracts issued on the life of residents of countries in the Western Hemisphere which are not contiguous to the United States, and

"(B) the denominator of which is the amount of the tax reserves allocable to life insurance contracts.

The preceding sentence shall not apply unless the fraction determined under the preceding sentence exceeds 1/20.

"(6) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED BEFORE JANUARY 1, 1985.—In determining the amount of tax reserves for purposes of subsection (b)(4), section 811(e) shall not apply with respect to any life insurance contract issued before January 1, 1985, under a plan of life insurance in existence on July 1, 1983.

"(7) REDUCTION IN EQUITY BASE FOR MUTUAL SUCCESSOR OF FRATERNAL BENEFIT SOCIETY.—In the case of any mutual life insurance company which—

"(A) is the successor to a fraternal benefit society, and

"(B) which assumed the surplus of such fraternal benefit society in 1950,

the equity base of such mutual life insurance company shall be reduced by the amount of the surplus so assumed plus earnings thereon, (i) for taxable years before 1984, at a 7 percent interest rate, and (ii) for taxable years 1984 and following, at the average mutual earnings rate for such year.

"(h) TREATMENT OF STOCK COMPANIES OWNED BY MUTUAL LIFE INSURANCE COMPANIES.—

"(1) TREATMENT AS MUTUAL LIFE INSURANCE COMPANIES FOR PURPOSES OF DETERMINING STOCK EARNINGS RATES AND MUTUAL EARNINGS RATES.—Solely for purposes of subsections (d) and (e), a stock life insurance company shall be treated as a mutual life insurance company if stock possessing—

"(A) at least 80 percent of the total combined voting power of all classes of stock of such stock life insurance company entitled to vote, or

"(B) at least 80 percent of the total value of shares of all classes of stock of such stock life insurance company,

is owned at any time during the calendar year directly (or through the application of section 318) by 1 or more mutual life insurance companies.

"(2) TREATMENT OF AFFILIATED GROUP WHICH INCLUDES MUTUAL PARENT AND STOCK SUBSIDIARY.—In the case of an affiliated group of corporations which includes a common parent which is a mutual life insurance company and one or more stock life insurance companies, for purposes of determining the average equity base of such common parent (and the statement gain or loss from operations)—

"(A) stock in such stock life insurance companies held by such common parent (and dividends on such stock) shall not be taken into account, and

"(B) such common parent and such stock life insurance companies shall be treated as though they were one mutual life insurance company.

"(3) ADJUSTMENT WHERE STOCK COMPANY NOT MEMBER OF AFFILIATED GROUP.—In the case of any stock life insurance company which is described in paragraph (1) but is not a member of an affiliated group described in paragraph (2), under regulations, proper adjustments shall be made in the average equity bases (and statement gains or losses from operations) of mutual life insurance companies owning stock in such company as may be necessary or appropriate to carry out the purposes of this section.

"(i) TRANSITIONAL RULE FOR CERTAIN HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the average equity base of a high surplus mutual life insurance company for any taxable year shall not include the applicable percentage of the excess equity base of such company for such taxable year.

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

"(A) EXCESS EQUITY BASE.—The term 'excess equity base' means the excess of—

"(i) the average equity base of the company for the taxable year, over

"(ii) the amount which would be its average equity base if its equity percentage equaled 130 percent of the numerical average of the equity percentage for the 50 largest mutual life insurance companies for such taxable year.

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means these determined in accordance with the following table:

"For taxable years beginning in:	The applicable percentage is:
1984	100
1985	80
1986	60
1987	40
1988	20
1989 or thereafter	0.

"(C) HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANY.—The term 'high surplus mutual life insurance company' means any mutual life insurance company if, for the taxable year beginning in 1984, its equity percentage exceeded 130 percent of the numerical average of the equity percentages for the 50 largest mutual life insurance companies for such taxable year.

"(D) EQUITY PERCENTAGE.—The term 'equity percentage' means, with respect to any mutual life insurance company, the percentage which—

"(i) the average equity base of such company (determined under this section without regard to this subsection) for a taxable year bears to

"(ii) the average of—

"(I) the assets of such company as of the close of the preceding taxable year, and

"(II) the assets of such company as of the close of the taxable year.

For purposes of the preceding sentence, the assets of a company shall include all assets included under this section in its equity base.

"(E) 50 LARGEST MUTUAL LIFE INSURANCE COMPANIES.—The term '50 largest mutual life insurance companies' means a group (as determined by the Secretary) of mutual life insurance companies which consists of the 50 largest mutual life insurance companies which are subject to tax under this chapter.

"(3) DETERMINATION OF AVERAGE OF EQUITY PERCENTAGES FOR ALL COMPANIES.—The average of the equity percentages for the 50 largest mutual life insurance companies for any taxable year shall be such average as determined by the Secretary using the most recent data available as of the close of such taxable year.

"SEC. 810. OPERATIONS LOSS DEDUCTION.

"(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of—

"(1) the operations loss carryovers to such year, plus

"(2) the operations loss carrybacks to such year.

For purposes of this part, the term 'operations loss deduction' means the deduction allowed by this subsection.

"(b) OPERATIONS LOSS CARRYBACKS AND CARRYOVERS.—

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 15 taxable years following the loss year, and

"(C) if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 15 taxable years described in subparagraph (B).

"(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the loss from operations for any loss year shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (d)) for each of the prior taxable years to which such loss may be carried.

"(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and, once made for any taxable year, such election shall be irrevocable for that taxable year.

"(c) COMPUTATION OF LOSS FROM OPERATIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'loss from operations' means the excess of the life insurance deductions for any taxable year over the life insurance gross income for such taxable year.

"(2) MODIFICATIONS.—For purposes of paragraph (1)—

"(A) the operations loss deduction shall not be allowed, and

"(B) the deductions allowed by sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on certain preferred stock of public utilities), and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) as modified by section 805(a)(4).

"(d) OFFSET DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the term 'offset' means, with respect to any taxable year, an amount equal to that increase in the operations loss deduction for the taxable year which reduces the life insurance company taxable income (computed without regard to paragraphs (2) and (3) of section 804) for such year to zero.

"(2) OPERATIONS LOSS DEDUCTION.—For purposes of paragraph (1), the operations loss deduction for any taxable year shall be computed without regard to the loss from operations for the loss year or for any taxable year thereafter.

"(e) NEW COMPANY DEFINED.—For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies) was authorized to do business as an insurance company.

"(f) APPLICATION OF SUBTITLES A AND F IN RESPECT OF OPERATION LOSSES.—Except as provided in section 805(b)(5), subtitles A and F shall apply in respect of operation loss carrybacks, operation loss carryovers, and the operations loss deduction under this part, in the same manner and to the same extent as such subtitles apply in respect of net operating loss carrybacks, net operating loss carryovers, and the net operating loss deduction.

"(g) TRANSITIONAL RULE.—For purposes of this section and section 812 (as in effect before the enactment of the Life Insurance Tax Act of 1984), this section shall be treated as a continuation of such section 812.

"Subpart D—Accounting, Allocation, and Foreign Provisions

"SEC. 811. ACCOUNTING PROVISIONS.

"(a) METHOD OF ACCOUNTING.—All computations entering into the determination of the taxes imposed by this part shall be made—

"(1) under an accrual method of accounting, or

"(2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any method permitted by this chapter (other than the cash receipts and disbursements method).

To the extent not inconsistent with the preceding sentence or any other provision of this part, all such computations shall be made in a manner consistent with the

manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(b) AMORTIZATION OF PREMIUM AND ACCRUAL OF DISCOUNT.—

"(1) IN GENERAL.—The appropriate items of income, deductions, and adjustments under this part shall be adjusted to reflect the appropriate amortization of premium and the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

"(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(B) in all other cases, in accordance with regulations prescribed by the Secretary.

"(2) SPECIAL RULES.—

"(A) AMORTIZATION OF BOND PREMIUM.—In the case of any bond (as defined in section 171(d)), the amount of bond premium, and the amortizable bond premium for the taxable year, shall be determined under section 171(b) as if the election set forth in section 171(c) had been made.

"(B) CONVERTIBLE EVIDENCE OF INDEBTEDNESS.—In no case shall the amount of premium on a convertible evidence of indebtedness include any amount attributable to the conversion features of the evidence of indebtedness.

"(3) EXCEPTION.—No accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

"(A) interest to which section 103 applies, or

"(B) original issue discount (as defined in section 1232(b)).

"(c) NO DOUBLE COUNTING.—Nothing in this part shall permit—

"(1) a reserve to be established for any item unless the gross amount of premiums and other consideration attributable to such item are required to be included in life insurance gross income,

"(2) the same item to be counted more than once for reserve purposes, or

"(3) any item to be deducted (either directly or as an increase in reserves) more than once.

"(d) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 482) who are parties to a reinsurance agreement (or where one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of another party to such agreement or a conduit between related persons), the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.

"(e) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 816), amounts in the nature of interest to be paid or credited under any contract for any period which is computed at a rate which—

"(1) exceeds the prevailing State assumed interest rate for the contract for such period, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.

"(f) SHORT TAXABLE YEARS.—If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as 'short period'), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

"SEC. 812. DEFINITION OF COMPANY'S SHARE AND POLICYHOLDERS' SHARE.

"(a) GENERAL RULE.—

"(1) COMPANY'S SHARE.—For purposes of section 805(a)(4), the term 'company's share' means, with respect to any taxable year, the percentage obtained by dividing—

"(A) the company's share of the net investment income for the taxable year, by

"(B) the net investment income for the taxable year.

"(2) POLICYHOLDERS' SHARE.—For purposes of section 807, the term 'policyholders' share' means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1).

"(b) COMPANY'S SHARE OF NET INVESTMENT INCOME.—

"(1) IN GENERAL.—For purposes of this section, the company's share of net investment income is the excess (if any) of—

"(A) the net investment income for the taxable year, over

"(B) the sum of—

"(i) the policy interest, for the taxable year, plus

"(ii) the gross investment income's proportionate share of policyholder dividends for the taxable year.

"(2) POLICY INTEREST.—For purposes of this subsection, the term 'policy interest' means—

"(A) required interest (at the prevailing State assumed rate) on reserves under section 807(c) (other than paragraph (2) thereof),

"(B) the deductible portion of excess interest, and

"(C) the deductible portion of any amount (whether or not a policyholder dividend), and not taken into account under subparagraph (A) or (B), credited to—

"(i) a policyholder's fund under a pension plan contract for employees (other than retired employees), or

"(ii) a deferred annuity contract before the annuity starting date.

"(3) GROSS INVESTMENT INCOME'S PROPORTIONATE SHARE OF POLICYHOLDER DIVIDENDS.—For purposes of paragraph (1), the gross investment income's proportionate share of policyholder dividends is—

"(A) the deduction for policyholders' dividends determined under sections 808 and 809 for the taxable year, but not including—

"(i) the deductible portion of excess interest,

"(ii) the deductible portion of policyholder dividends on contracts referred to in clauses (i) and (ii) of paragraph (2)(C), and

"(iii) the deductible portion of the premium and mortality charge adjustments with respect to contracts paying excess interest for such year,

multiplied by

"(B) the fraction—

"(i) the numerator of which is gross investment income for the taxable year (reduced by the policy interest for such year), and

"(ii) the denominator of which is gross income (including tax-exempt interest) reduced by the excess (if any) of the closing balance for the items described in section 807(c) over the opening balance for such items for the taxable year.

"(c) NET INVESTMENT INCOME.—For purposes of this section, the term 'net investment income' means 90 percent of gross investment income.

"(d) GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' means the sum of the following:

"(1) INTEREST, ETC.—The gross amount of income from—

"(A) interest (including tax-exempt interest), dividends, rents, and royalties,

"(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

"(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

"(2) SHORT-TERM CAPITAL GAIN.—The amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

"(3) TRADE OR BUSINESS INCOME.—The gross income from any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

"(e) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations).

"(f) NO DOUBLE COUNTING.—Under regulations, proper adjustments shall be made in the application of this section to prevent an item from being counted more than once.

"SEC. 813. FOREIGN LIFE INSURANCE COMPANIES.

"(a) ADJUSTMENT WHERE SURPLUS HELD IN THE UNITED STATES IS LESS THAN SPECIFIED MINIMUM.—

"(1) IN GENERAL.—In the case of any foreign company taxable under this part, if—

"(A) the required surplus determined under paragraph (2), exceeds

"(B) the surplus held in the United States, then its income effectively connected with the conduct of an insurance business within the United States shall be increased by an amount determined by multiplying such excess by such company's current investment yield.

"(2) REQUIRED SURPLUS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'required surplus' means the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year determined and proclaimed by the Secretary under subparagraph (B).

"(B) DETERMINATION OF PERCENTAGE.—The percentage determined and proclaimed by the Secretary under this subparagraph shall be based on such data with respect to domestic life insurance companies for the preceding taxable year as the Secretary considers representative. Such percentage shall be computed on the basis of a ratio the numerator of which is the excess of the assets over the total insurance liabilities, and the denominator of which is the total insurance liabilities.

"(3) CURRENT INVESTMENT YIELD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current investment yield' means the percent obtained by dividing—

"(i) the net investment income on assets held in the United States, by

"(ii) the mean of the assets held in the United States during the taxable year.

"(B) DETERMINATIONS BASED ON AMOUNT SET FORTH IN THE ANNUAL STATEMENT.—Except as otherwise provided in regulations, determinations under subparagraph (A) shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

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

"(A) SURPLUS HELD IN THE UNITED STATES.—The surplus held in the United States is the excess of the assets (determined under section 806(b)(3)(C)) held in the United States over the total insurance liabilities on United States business.

"(B) TOTAL INSURANCE LIABILITIES.—For purposes of this subsection, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

"(5) REDUCTION OF SECTION 881 TAXES.—In the case of any foreign company taxable under this part, there shall be determined—

"(A) the amount which would be subject to taxes under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894, and

"(B) the amount of the increase provided by paragraph (1).

The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which is the same proportion of such tax as the amount referred to in subparagraph (B) is of the amount referred to in subparagraph (A); but such reduction in taxes shall not exceed the increase in taxes under this part by reason of the increase provided by paragraph (1).

"(b) ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the amount of any excess determined under paragraph (1) of subsection (a) with respect to such taxable year.

"(c) CROSS REFERENCE.—

"For taxation of foreign corporations carrying on life insurance business within the United States, see section 842.

"SEC. 814. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) EXCLUSION OF ITEMS.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.—For purposes of this section, the term contiguous country life insurance branch means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) SEPARATE ACCOUNTING REQUIRED.—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.—

"(1) REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

"(2) REPATRIATION OF INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the income of the domestic life insurance company.

"(B) LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

"(i) the aggregate decrease in the tentative LICTI of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

"(ii) the amount of additions to tentative LICTI pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

"(C) TRANSITIONAL RULE.—For purposes of this paragraph, in the case of a prior taxable year beginning before January 1, 1984, the term 'tentative LICTI' means life insurance company taxable income determined under this part (as in effect for such year) without regard to this paragraph.

"(f) OTHER RULES.—

"(1) TREATMENT OF FOREIGN TAXES.—

"(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

"(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including

extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.

"SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.

"(a) GENERAL RULE.—The life insurance company taxable income (within the meaning of section 801(b)) for any taxable year of any stock life insurance company which has an existing policyholders surplus account shall be increased by any direct or indirect distribution to shareholders from such account. For purposes of the preceding sentence, the life insurance company taxable income (within the meaning of section 801(b)) shall be treated as not less than zero.

"(b) ORDERING RULE.—For purposes of this section, any distribution to shareholders shall be treated as made—

"(1) first out of the shareholders surplus account, to the extent thereof,

"(2) then out of the policyholders surplus account, to the extent thereof, and

"(3) finally, out of other accounts.

"(c) SHAREHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue its shareholders surplus account for purposes of this part.

"(2) ADDITIONS TO ACCOUNT.—The amount added to the shareholders surplus account for any taxable year beginning after December 31, 1983, shall be the excess of—

"(A) the sum of—

"(i) the life insurance company's taxable income (determined without regard to this section),

"(ii) the special deductions provided by section 806, and

"(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by section 805(a)(4)) and the amount of interest excluded from gross income under section 103, over

"(B) the taxes imposed for the taxable year by section 801 (determined without regard to this section).

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the shareholders surplus account for any taxable year the amount which is treated under this section as distributed out of such account.

"(d) POLICYHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue such account.

"(2) NO ADDITIONS TO ACCOUNT.—No amount shall be added to the policyholders surplus account for any taxable year beginning after December 31, 1983.

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the policyholders surplus account for any taxable year an amount equal to the sum of—

"(A) the amount which (without regard to subparagraph (B)) is treated under this section as distributed out of the policyholders surplus account, and

"(B) the amount by which the tax imposed for the taxable year by section 801 is increased by reason of this section.

"(e) EXISTING POLICYHOLDERS SURPLUS ACCOUNT.—For purposes of this section, the term 'existing policyholders surplus account' means any policyholders surplus account which has a balance as of the close of December 31, 1983.

"(f) OTHER RULES APPLICABLE TO POLICYHOLDERS SURPLUS ACCOUNT CONTINUED.—Except to the extent inconsistent with the provisions of this part, the provisions of subsections (d), (e), (f), and (g) of section 815 (and of sections 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4)) as in effect before the enactment of the Life Insurance Tax Act of 1984 are hereby made applicable in respect of any policyholders surplus account for which there was a balance as of December 31, 1983.

"Subpart E—Definitions and Special Rules

"SEC. 816. LIFE INSURANCE COMPANY DEFINED.

"(a) LIFE INSURANCE COMPANY DEFINED.—For purposes of this subtitle, the term 'life insurance company' means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

"(1) its life insurance reserves (as defined in subsection (b)), plus

"(2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves,

comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term 'insurance company' means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

"(b) LIFE INSURANCE RESERVES DEFINED.—

"(1) IN GENERAL.—For purposes of this part, the term 'life insurance reserves' means amounts—

"(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

"(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable accident and health insurance contracts (including life insurance or annuity contracts combined with noncancellable accident and health insurance) involving, at the time with respect to which the reserve is computed, life, accident, or health contingencies.

"(2) RESERVES MUST BE REQUIRED BY LAW.—Except—

"(A) in the case of policies covering life, accident, and health insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and

"(B) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

"(3) ASSESSMENT COMPANIES.—In the case of an assessment life insurance company or association, the term 'life insurance reserves' includes—

"(A) sums actually deposited by such company or association with State officers pursuant to law as guaranty or reserve funds, and

"(B) any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

"(4) AMOUNT OF RESERVES.—For purposes of this subsection, subsection (a), and subsection (c), the amount of any reserve (or portion thereof) for any taxable year shall be the mean of such reserve (or portion thereof) at the beginning and end of the taxable year.

"(c) TOTAL RESERVES DEFINED.—For purposes of subsection (a), the term 'total reserves' means—

"(1) life insurance reserves,

"(2) unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves, and

"(3) all other insurance reserves required by law.

The term 'total reserves' does not include deficiency reserves (within the meaning of subsection (b)(4)).

"(d) ADJUSTMENTS IN RESERVES FOR POLICY LOANS.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, the life insurance reserves, and the total reserves, shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained.

"(e) GUARANTEED RENEWABLE CONTRACTS.—For purposes of this part, guaranteed renewable life, accident, and health insurance shall be treated in the same manner as non-

cancellable life, accident, and health insurance.

"(f) AMOUNTS NOT INVOLVING LIFE, ACCIDENT, OR HEALTH CONTINGENCIES.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, amounts set aside and held at interest to satisfy obligations under contracts which do not contain permanent guarantees with respect to life, accident, or health contingencies shall not be included in life insurance reserves or in total reserves.

"(g) BURIAL AND FUNERAL BENEFIT INSURANCE COMPANIES.—A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under this part but shall be taxable under section 821 or section 831.

"SEC. 817. TREATMENT OF VARIABLE CONTRACTS.

"(a) INCREASES AND DECREASES IN RESERVES.—For purposes of subsections (a) and (b) of section 807, the sum of the items described in section 807(c) taken into account as of the close of the taxable year with respect to any variable contract shall, under regulations prescribed by the Secretary, be adjusted—

"(1) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves separately accounted for in accordance with subsection (c) by reason of appreciation in value of assets (whether or not the assets have been disposed of), and

"(2) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).

The deduction allowable for items described in paragraphs (1) and (6) of section 805(a) with respect to variable contracts shall be reduced to the extent that the amount of such items is increased for the taxable year by appreciation (or increased to the extent that the amount of such items is decreased for the taxable year by depreciation) not reflected in adjustments under the preceding sentence.

"(b) ADJUSTMENT TO BASIS OF ASSETS HELD IN SEGREGATED ASSET ACCOUNT.—In the case of variable contracts, the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

"(1) increased by the amount of any appreciation in value, and

"(2) decreased by the amount of any depreciation in value,

to the extent such appreciation and depreciation are from time to time reflected in the increases and decreases in reserves or other items referred to in subsection (a) with respect to such contracts.

"(c) SEPARATE ACCOUNTING.—For purposes of this part (other than section 809), a life insurance company which issues variable contracts shall separately account for the various income, exclusion, deduction, asset, reserve, and other liability items properly attributable to such variable contracts. For such items as are not accounted for directly, separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) VARIABLE CONTRACT DEFINED.—For purposes of this part, the term 'variable contract' means a contract—

"(1) which provides for the allocation of all or part of the amounts received under the contract to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company,

"(2) which—

"(A) provides for the payment of annuities, or

"(B) is a life insurance contract, and

"(3) under which—

"(A) in the case of an annuity contract, the amounts paid in, or the amount paid out, reflect the investment return and the market value of the segregated asset account, or

"(B) 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.

If a contract ceases to reflect current investment return and current market value, such contract shall not be considered as meeting the requirements of paragraph (3) after such cessation.

"(e) PENSION PLAN CONTRACTS TREATED AS PAYING ANNUITY.—A pension plan contract which is not a life, accident, health, property, casualty, or liability insurance contract shall be treated as a contract which provides for the payments of annuities for purposes of subsection (d).

"(f) OTHER SPECIAL RULES.—

"(1) LIFE INSURANCE RESERVES.—For purposes of subsection (b)(1)(A) of section 816, the reflection of the investment return and the market value of the segregated asset account shall be considered an assumed rate of interest.

"(2) ADDITIONAL SEPARATE COMPUTATIONS.—Under regulations prescribed by the Secretary, such additional separate computations shall be made, with respect to the items separately accounted for in accordance with subsection (c), as may be necessary to carry out the purposes of this section and this part.

"(g) VARIABLE ANNUITY CONTRACTS TREATED AS ANNUITY CONTRACTS.—For purposes of this part, the term 'annuity contract' includes a contract which provides for the payment of a variable annuity computed on the basis of—

"(1) recognized mortality tables, and

"(2)(A) the investment experience of a segregated asset account, or

"(B) the company-wide investment experience of the company.

Paragraph (2)(B) shall not apply to any company which issues contracts which are not variable contracts.

"(h) TREATMENT OF CERTAIN NONDIVERSIFIED CONTRACTS.—

"(1) IN GENERAL.—For purposes of subchapter L, section 72 (relating to annuities), and section 7702(a) (relating to definition of life insurance contract), a variable contract which is otherwise described in this section and which is based on a segregated asset account shall not be treated as an annuity, endowment, or life insurance contract unless the investments made by such account are, in accordance with regulations prescribed by the Secretary, adequately diversified. For purposes of the preceding sentence, beneficial interests in a regulated investment company or in a trust shall not be treated as one investment if all of the beneficial interests in such company or trust are held by one or more segregated asset accounts of the company issuing the contract.

"(2) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS INVESTING IN UNITED STATES OBLIGATIONS.—In the case of a segregated asset account with respect to variable life insurance contracts, paragraph (1) shall not apply in the case of securities issued by the United States Treasury which are owned by a regulated investment company or by a trust all the beneficial interests in which are held by one or more segregated asset accounts of the company issuing the contract.

"(3) INDEPENDENT INVESTMENT ADVISORS PERMITTED.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors.

"SEC. 818. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) PENSION PLAN CONTRACTS.—For purposes of this part, the term 'pension plan contract' means any contract—

"(1) entered into with trusts which (as of the time the contracts were entered into) were deemed to be trusts described in section 401(a) and exempt from tax under section 501(a), (or trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws);

"(2) entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), (20), and (22) of section 401(a);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) (or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws), or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing;

"(5) entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b); or

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A).

"(b) TREATMENT OF CAPITAL GAINS AND LOSSES, ETC.—In the case of a life insurance company—

"(1) in applying section 1231(a), the term 'property used in the trade or business' shall be treated as including only—

"(A) property used in carrying on an insurance business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than

1 year, and real property used in carrying on an insurance business, held for more than 1 year, which is not described in section 1231(b)(1) (A), (B), or (C), and

"(B) property described in section 1231(b)(2), and

"(2) in applying section 1221(2), the reference to property used in trade or business shall be treated as including only property used in carrying on an insurance business.

"(c) GAIN ON PROPERTY HELD ON DECEMBER 31, 1958 AND CERTAIN SUBSTITUTED PROPERTY ACQUIRED AFTER 1958.—

"(1) PROPERTY HELD ON DECEMBER 31, 1958.—In the case of property held by the taxpayer on December 31, 1958, if—

"(A) the fair market value of such property on such date exceeds the adjusted basis for determining gain as of such date, and

"(B) the taxpayer has been a life insurance company at all times on and after December 31, 1958,

the gain on the sale or other disposition of such property shall be treated as an amount (not less than zero) equal to the amount by which the gain (determined without regard to this subsection) exceeds the difference between the fair market value on December 31, 1958, and the adjusted basis for determining gain as of such date.

"(2) CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 1958.—In the case of property acquired after December 31, 1958, and having a substituted basis (within the meaning of section 1016(b))—

"(A) for purposes of paragraph (1), such property shall be deemed held continuously by the taxpayer since the beginning of the holding period thereof, determined with reference to section 1223,

"(B) the fair market value and adjusted basis referred to in paragraph (1) shall be that of that property for which the holding period taken into account includes December 31, 1958,

"(C) paragraph (1) shall apply only if the property or properties the holding periods of which are taken into account were held only by life insurance companies after December 31, 1958, during the holding periods so taken into account,

"(D) the difference between the fair market value and adjusted basis referred to in paragraph (1) shall be reduced (to not less than zero) by the excess of (i) the gain that would have been recognized but for this subsection on all prior sales or dispositions after December 31, 1958, of properties referred to in subparagraph (C), over (ii) the gain which was recognized on such sales or other dispositions, and

"(E) the basis of such property shall be determined as if the gain which would have been recognized but for this subsection were recognized gain.

"(3) PROPERTY DEFINED.—For purposes of paragraphs (1) and (2), the term 'property' does not include insurance and annuity contracts and property described in paragraph (1) of section 1221.

"(d) INSURANCE OR ANNUITY CONTRACT INCLUDES CONTRACTS SUPPLEMENTARY THERETO.—For purposes of this part, the term 'insurance or annuity contract' includes any contract supplementary thereto.

"(e) SPECIAL RULE FOR CONSOLIDATED RETURNS.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(f) ALLOCATION OF CERTAIN ITEMS FOR PURPOSES OF FOREIGN TAX CREDIT, ETC.—

"(1) IN GENERAL.—Under regulations, in applying sections 861, 862, and 863 to a life insurance company, the deduction for policyholder dividends (determined under section 808(c)), reserve adjustments under subsections (a) and (b) of section 807, and death benefits and other amounts described in section 805(a)(1) shall be treated as items which cannot definitely be allocated to an item or class of gross income.

"(2) ELECTION OF ALTERNATIVE ALLOCATION.—

"(A) IN GENERAL.—On or before September 15, 1984, any life insurance company may elect to treat items described in paragraph (1) as properly apportioned or allocated among items of gross income to the extent (and in the manner) prescribed in regulations.

"(B) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subclause (IV) of section 72(e)(5)(D)(i) is amended by striking out "section 805(d)(3)" and inserting in lieu thereof "section 818(a)(3)".

(2) Subsection (a) of section 80 (relating to restoration of value of certain securities) is amended by striking out "802" and inserting in lieu thereof "801".

(3)(A) Subparagraph (C) of section 243(b)(3) (relating to effect of election) is amended by striking out clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(B) Paragraph (6) of section 243(b) (relating to special rules for insurance companies) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

(4) Subsection (d) of section 381 (relating to carryover in certain corporate acquisitions) is amended by striking out "section 812(f)" and inserting in lieu thereof "section 810".

(5) Paragraph (24) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "section 805(d)(6)" and inserting in lieu thereof "section 818(a)(6)".

(6)(A) Paragraph (1) of section 453B(e) (relating to life insurance companies) is amended by striking out "section 801(a)" and inserting in lieu thereof "section 816(a)".

(B) Paragraph (2) of section 453B(e) is amended to read as follows:

"(2) SPECIAL RULE WHERE LIFE INSURANCE COMPANY ELECTS TO TREAT INCOME AS NOT RELATED TO INSURANCE BUSINESS.—Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

"(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and

"(B) as if such income were an item attributable to a noninsurance business (as defined in section 806(c)(3)).".

(7) Paragraph (5) of section 542(b) (relating to certain dividend income received from a nonincludible life insurance company) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

(8) Subsection (b) of section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

(9) Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out "section 801(b)" and inserting in lieu thereof "section 816(b) but determined as provided in section 807" and by striking out "section 801" and inserting in lieu thereof "section 816".

(10) Section 841 (relating to credit for foreign taxes) is amended—

(A) by striking out "section 802," each place it appears and inserting in lieu thereof "section 801,", and

(B) by striking out "section 802(b)" and inserting in lieu thereof "section 801(b)".

(11)(A) Subsection (a) of section 844 (relating to special loss carryover rules) is amended—

(i) by striking out "section 812," and inserting in lieu thereof "section 810 (or the corresponding provisions of prior law),", and

(ii) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)".

(B) Subsection (b) of section 844 is amended—

(i) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)", and

(ii) by striking out "section 812(b)(1)(C)" in paragraph (2) and inserting in lieu thereof "section 810(b)(1)(C)".

(12) Section 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out "802" and inserting in lieu thereof "801".

(13)(A) Subsection (b) of section 953 (relating to income from insurance of United States risks) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Paragraph (2) of section 953(b), as redesignated by subparagraph (A), is amended to read as follows:

"(2) The following provisions of subchapter L shall not apply:

"(A) The special life insurance company deduction and the small life insurance company deduction.

"(B) Section 805(a)(5) (relating to operations loss deduction).

"(C) Section 832(c)(5) (relating to certain capital losses).".

(C) Paragraph (3) of section 953(b), as redesignated by subparagraph (A), is amended by—

(i) striking out "section 809(c)(1)" and inserting in lieu thereof "section 803(a)(1)", and

(ii) by striking out "section 809(c)(2)" and inserting in lieu thereof "section 803(a)(2)", and

(iii) by striking out "section 809(d)(2)" and inserting in lieu thereof "section 805(a)(2)".

(D) Paragraph (2) of section 953(a) is amended by striking out ", (2), and (3)" and inserting in lieu thereof "and (2)".

(E) Paragraph (4) of section 953(b), as redesignated by subparagraph (A), is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

(14) Paragraph (17) of section 1016(a) is amended by striking out "section 818(b)" each place it appears and inserting in lieu thereof "section 811(b)".

(15) Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

(16) Paragraph (1) of section 1201(b) (relating to cross references) is amended by

striking out "section 802(a)(2)" and inserting in lieu thereof "section 801(a)(2)".

(17) Subparagraph (B) of section 1232A(c)(4) (relating to original issue discount) is amended by striking out "section 818(b)" and inserting in lieu thereof "section 811(b)".

(18)(A) Paragraph (1) of section 1351(a) (relating to treatment of recoveries of foreign expropriation losses) is amended by striking out "802" each place it appears and inserting in lieu thereof "801".

(B) Paragraph (2) of section 1351(c) (relating to amount of recovery) is amended by striking out "section 810(c)" and inserting in lieu thereof "section 807(c)".

(C) Paragraph (3) of section 1351(i) (relating to adjustments for succeeding years) is amended by striking out "section 812" and inserting in lieu thereof "section 810".

(19)(A) Subsection (c) of section 1503 (relating to special rules for application of certain losses against income of insurance companies taxed under section 802) is amended by striking out "section 802" each place it appears and inserting in lieu thereof "section 801".

(B) Paragraph (1) of section 1503(c) is amended by striking out the third sentence.

(C) The subsection heading of section 1503(c) is amended by striking out "SECTION 802" and inserting in lieu thereof "SECTION 801".

(20) Subsections (b)(2), (c)(1), and (c)(2)(A) of section 1504 (defining affiliated group) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

(21)(A) Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraphs (3) and (4), by adding "and" at the end of paragraph (1), and by striking out the comma at the end of paragraph (2) and inserting in lieu thereof a period, and

(ii) by striking out "paragraphs (2), (3), and (4)" in the last sentence and inserting in lieu thereof "paragraph (2)".

(B) Subsection (b) of section 1561 is amended—

(i) by striking out paragraphs (3) and (4) and by adding "and" at the end of paragraph (1), and

(ii) by striking out ", (2), (3), or (4)" and inserting in lieu thereof "or (2)".

(22) Subsections (a)(4) and (b)(2)(D) of section 1563 (defining controlled group of corporations) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

(23) Paragraph (2) of section 4371 (relating to imposition of tax on policies issued by foreign insurers) is amended by striking out "section 819" and inserting in lieu thereof "section 813".

(24)(A) Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(B) Subsection (k) of section 6501 (relating to reductions of policyholders surplus account of life insurance companies) is hereby repealed.

(25) Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(26) Subsection (d) of section 6601 (relating to interest on underpayments, etc.) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(27) Subsection (f) of section 6611 (relating to interest on overpayments) is amended by striking out paragraph (4).

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

Subpart A—Effective Date

SEC. 215. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983.

Subpart B—Transitional Rules

SEC. 216. RESERVES COMPUTED ON NEW BASIS; FRESH START.

(a) IN GENERAL.—As of the beginning of the first taxable year beginning after December 31, 1983, for purposes of subchapter L of the Internal Revenue Code of 1954 (other than section 816 thereof), the reserve for any contract shall be recomputed as if the amendments made by this subtitle had applied to such contract when it was issued.

(b) FRESH START.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of any life insurance company, any change in the method of accounting (and any change in the method of computing reserves) between such company's first taxable year beginning after December 31, 1983, and the preceding taxable year which is required solely by the amendments made by this subtitle shall be treated as not being a change in the method of accounting (or change in the method of computing reserves) for purposes of the Internal Revenue Code of 1954.

(2) TREATMENT OF ADJUSTMENTS FROM YEARS BEFORE 1984.—

(A) ADJUSTMENTS ATTRIBUTABLE TO DECREASES IN RESERVES.—No adjustment under section 810(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) attributable to any decrease in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in any taxable year beginning after 1983.

(B) ADJUSTMENTS ATTRIBUTABLE TO INCREASES IN RESERVES.—

(i) IN GENERAL.—Any adjustment under section 810(d) of the Internal Revenue Code of 1954 (as so in effect) attributable to an increase in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in taxable years beginning after 1983 to the extent that—

(I) the amount of the adjustments which would be taken into account under such section in taxable years beginning after 1983 without regard to this subparagraph, exceeds

(II) the amount of any fresh start adjustment attributable to contracts for which there was such an increase in reserves as a result of such change.

(ii) FRESH START ADJUSTMENT.—For purposes of clause (i), the fresh start adjustment with respect to any contract is the excess (if any) of—

(I) the reserve attributable to such contract as of the close of the taxpayer's last taxable year beginning before January 1, 1984, over

(II) the reserve for such contract as of the beginning of the taxpayer's first taxable year beginning after 1983 as recomputed under subsection (a) of this section.

(C) RELATED INCOME INCLUSIONS NOT TAKEN INTO ACCOUNT TO THE EXTENT DEDUCTION DISALLOWED UNDER SUBPARAGRAPH (B).—NO PREMIUM SHALL BE INCLUDED IN INCOME TO THE EXTENT SUCH PREMIUM IS DIRECTLY RELATED TO AN INCREASE IN A RESERVE FOR WHICH A DEDUCTION IS DISALLOWED BY SUBPARAGRAPH (B).

(3) REINSURANCE TRANSACTIONS AND RESERVE STRENGTHENING AFTER SEPTEMBER 27, 1983.—

(A) IN GENERAL.—Except as provided in this paragraph—

(i) any reinsurance agreement entered into after September 27, 1983, and before the first day of the first taxable year beginning after December 31, 1983,

(ii) any modification of any reinsurance agreement after September 27, 1983, and before such first day, and

(iii) any reserve strengthening reported for Federal income tax purposes after September 27, 1983, for a taxable year ending before such first day,

shall not be taken into account for Federal income tax purposes until such first day.

(B) EXCEPTIONS FOR DETERMINING WHETHER COMPANY IS A LIFE INSURANCE COMPANY, ETC.—Subparagraph (A) shall not apply for purposes of sections 801 and 815 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act).

(C) EXCEPTION FOR COMPUTATION OF RESERVES ON NEW CONTRACTS IN CUSTOMARY MANNER.—Subparagraph (A)(iii) shall not apply to the computation of reserves on any contract issued if such computation employs the reserve practice used for purposes of the most recent annual statement filed before September 27, 1983, for the type of contract with respect to which such reserves are set up.

(4) ELECTIONS UNDER SECTION 818(C) AFTER SEPTEMBER 27, 1983, NOT TO TAKE EFFECT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any election after September 27, 1983, under section 818(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not take effect.

(B) EXCEPTION FOR CERTAIN CONTRACTS ISSUED UNDER PLAN OF INSURANCE FIRST FILED AFTER MARCH 1, 1982, AND BEFORE SEPTEMBER 28, 1983.—Subparagraph (A) shall not apply to any election under such section 818(c) if more than 95 percent of the reserves computed in accordance with such election are attributable to risks under life insurance contracts issued by the taxpayer under a plan of insurance first filed after March 1, 1982, and before September 28, 1983.

(5) RECAPTURE OF REINSURANCE AFTER DECEMBER 31, 1983.—If (A) insurance or annuity contracts in force on December 31, 1983, are subject to an indemnity reinsurance agreement entered into after December 31, 1981, (B) paragraph (3) of this subsection does not apply, and (C) such contracts are recaptured by the reinsured in any taxable year beginning after December 31, 1983, then—

(i) if the amount of the reserves with respect to the recaptured contracts, computed at the date of recapture, that the reinsurer would have taken into account under section 810(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) exceeds the amount of the reserves with respect to the recaptured contracts, computed at the date of recapture, taken into account by the reinsurer under section 807(c) of the Internal Revenue Code of 1954 (as amended by this subtitle), such excess (but not greater than the amount of such excess if computed on January 1, 1984) shall be taken into account by the reinsurer under the method de-

scribed in section 807(f)(1)(B)(ii) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture, and

(ii) the amount, if any, taken into account by the reinsurer under clause (i) for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 shall be taken into account by the reinsured under the method described in section 807(f)(1)(B)(i) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture.

(c) ELECTION NOT TO HAVE RESERVES RECOMPUTED.—

(1) IN GENERAL.—If a qualified life insurance company makes an election under this paragraph—

(A) subsection (a) shall not apply to such company, and

(B) as of the beginning of the first taxable year beginning after December 31, 1983, and thereafter, the reserve for any contract issued before the first day of such taxable year by such company shall be the statutory reserve for such contract (within the meaning of section 809(b)(4)(B)(i) of the Internal Revenue Code of 1954).

(2) ELECTION WITH RESPECT TO CONTRACTS ISSUED AFTER 1983 AND BEFORE 1989.—

(A) IN GENERAL.—If—

(i) a qualified life insurance company makes an election under paragraph (1), and

(ii) the tentative LICTI (within the meaning of section 806(c) of such Code) of such company for its first taxable year beginning after December 31, 1983, does not exceed $3,000,000,

such company may elect under this paragraph to have the reserve for any contract issued on or after the first day of such first taxable year and before January 1, 1989, be equal to the statutory reserve for such contract, adjusted as provided in subparagraph (B).

(B) ADJUSTMENT TO RESERVES.—If this paragraph applies to any contract, the statutory reserves for such contract shall be adjusted as provided under section 805(c)(1) of such Code (as in effect for taxable years beginning in 1982 and 1983), except that section 805(c)(1)(B)(ii) of such Code (as so in effect) shall be applied by substituting—

(i) the prevailing State assumed interest rate (within the meaning of section 807(c)(4) of such Code), for

(ii) the adjusted reserves rate.

(3) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of this subsection, the term "qualified life insurance company" means any life insurance company which, as of December 31, 1983, had assets of less than $500,000,000 (determined in the same manner as under section 806(b)(3) of such Code).

(4) SPECIAL RULES FOR CONTROLLED GROUPS.—For purposes of applying the dollar limitations of paragraphs (2) and (3), rules similar to the rules of section 806(d) of such Code shall apply.

(5) ELECTIONS.—Any election under paragraph (1) or (2)—

(A) shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and

(B) once made, shall be irrevocable.

SEC. 217. OTHER SPECIAL RULES.

(a) NEW SECTION 814 TREATED AS CONTINUATION OF SECTION 819A.—For purposes of section 814 of the Internal Revenue Code of 1954 (relating to contiguous country branches of domestic life insurance companies)—

(1) any election under section 819A of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as an election under such section 814, and

(2) any reference to a provision of such section 814 shall be treated as including a reference to the corresponding provision of such section 819A.

(b) TREATMENT OF ELECTIONS UNDER SECTION 453B(e)(2).—If an election is made under section 453B(e)(2) before January 1, 1984, with respect to any installment obligation, any income from such obligation shall be treated as attributable to a noninsurance business (as defined in section 806(c)(3) of the Internal Revenue Code of 1954).

(c) DETERMINATION OF TENTATIVE LICTI WHERE CORPORATION MADE CERTAIN ACQUISITIONS IN 1980, 1981, 1982, AND 1983.—If—

(1) a corporation domiciled in Alabama, Oklahoma, or Texas acquired the assets of one or more insurance companies after 1979 and before April 1, 1983, and

(2) the bases of such assets in the hands of the corporation were determined under section 334(b)(2) of the Internal Revenue Code of 1954 or such corporation made an election under section 338 of such Code with respect to such assets,

then the tentative LICTI of the corporation holding such assets for taxable years beginning after December 31, 1983, shall, for purposes of determining the amount of the special deductions under section 806 of such Code, be increased by the deduction allowable under chapter 1 of such Code for the amortization of the cost of insurance contracts acquired in such asset acquisition (and any portion of any operations loss deduction attributable to such amortization).

(d) SPECIAL RULE FOR ALLOCATION IN CASE OF REINSURANCE AGREEMENTS.—Subsection (d) of section 811 of the Internal Revenue Code of 1954 (as amended by this title) shall not apply with respect to any risk arising and reinsured before September 27, 1983, under a reinsurance agreement entered into before such date.

(e) TREATMENT OF CERTAIN COMPANIES OPERATING BOTH AS STOCK AND MUTUAL COMPANY.—If, during the 10-year period ending on December 31, 1983, a company has, as authorized by the law of the State in which the company is domiciled, been operating as a mutual life insurance company with shareholders, such company shall be treated as a stock life insurance company.

(f) TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE COMPANIES.—

(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) of the Internal Revenue Code of 1954 (as amended by this subtitle) if such tables were—

(A) in use since 1965, and

(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

(A) has been in existence since 1965, and

(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves.

(3) STATUTORY RESERVES.—For purposes of this subsection, the term "statutory reserves" has the meaning given to such term by section 809(b)(4)(B) of such Code.

(g) TREATMENT OF REINSURANCE AGREEMENTS REQUIRED BY NAIC.—Effective for taxable years beginning after December 31, 1981, and before January 1, 1984, subsections (c)(1)(F) and (d)(12) of section 809 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not apply to dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of accident and health policies reinsured under a reinsurance agreement entered into before June 30, 1955, pursuant to the direction of the National Association of Insurance Commissioners and approved by the State insurance commissioner of the taxpayer's State of domicile. For purposes of subchapter L of chapter 1 of such Code (as in effect on the day before the date of the enactment of this Act), any such dividends shall be treated as dividends of the reinsurer and not the taxpayer.

(h) SPECIAL RULE FOR INSURANCE COMPANIES REQUIRED TO DIVEST REINSURANCE BUSINESS.—No amount shall be required to be included in life insurance company taxable income (within the meaning of section 801(b) of the Internal Revenue Code of 1954) under section 815 of such Code by reason of the divestiture of the reinsurance business of a life insurance company, pursuant to an order by the Board of Governors of the Federal Reserve System requiring such divestiture by September 1, 1984.

(i) DETERMINATION OF ASSETS OF CONTROLLED GROUP FOR PURPOSES OF SMALL LIFE INSURANCE COMPANY DEDUCTION FOR 1984.—

(1) IN GENERAL.—For purposes of applying paragraph (2) of section 806(d) of the Internal Revenue Code of 1954 (relating to nonlife insurance members included for asset test) for the first taxable year beginning after December 31, 1983, the members of the controlled group referred to in such paragraph shall be treated as including only those members of such group which are described in paragraph (2) of this subsection if—

(A) an election under section 1504(c)(2) of such Code is not in effect for the controlled group for such taxable year,

(B) during such taxable year, the controlled group does not include a member which is taxable under part I of subchapter L of chapter 1 of such Code and which became a member of such group after September 27, 1983, and

(C) the sum of the contributions to capital received by members of the controlled group which are taxable under such part I during such taxable year from the members of the controlled group which are not taxable under such part does not exceed the aggregate dividends paid during such taxable year by the members of such group which are taxable under such part I.

(2) MEMBERS OF GROUP TAKEN INTO ACCOUNT.—For purposes of paragraph (1), the members of the controlled group which are described in this paragraph are—

(A) any financial institution to which section 585 or 593 of such Code applies,

(B) any lending or finance business (as defined by section 542(d)),

(C) any insurance company subject to tax imposed by subchapter L of chapter 1 of such Code, and

(D) any securities broker.

(j) SPECIAL ELECTION TO TREAT INDIVIDUAL NONCANCELLABLE ACCIDENT AND HEALTH CONTRACTS AS CANCELLABLE.—

(1) IN GENERAL.—A mutual life insurance company may elect to treat all individual noncancellable (or guaranteed renewable) accident and health insurance contracts as though they were cancellable for purposes of subchapter L of chapter 1 of the Internal Revenue Code of 1954.

(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—

(A) TREATED AS MUTUAL LIFE INSURANCE COMPANY.—Any stock life insurance company which is a member of an affiliated group which has a common parent which made an election under paragraph (1), for purposes of part I of subchapter L of the Internal Revenue Code of 1954, such stock life insurance company shall be treated as though it were a mutual life insurance company.

"(B) INCOME OF ELECTING PARENT TAKEN INTO ACCOUNT IN DETERMINING SMALL LIFE INSURANCE COMPANY DEDUCTION OF ANY SUBSIDIARY.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phase-out of small life insurance company deduction).

(3) ELECTION.—An election under paragraph (1) shall apply to the company's first taxable year beginning after December 31, 1983, and all taxable years thereafter.

(4) TIME AND MANNER.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

SEC. 218. UNDERPAYMENTS OF ESTIMATED TAX FOR 1984.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation 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—

(1) such underpayment was created or increased by any provision of this subtitle, and

(2) such underpayment is paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after the date of the enactment of this Act.

Subtitle B—Taxation of Life Insurance Products

SEC. 221. DEFINITION OF LIFE INSURANCE CONTRACT.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7702. LIFE INSURANCE CONTRACT DEFINED.

"(a) GENERAL RULE.—For purposes of this title, the term 'life insurance contract' means any contract which is a life insurance contract under the applicable law, but only if such contract—

"(1) meets the cash value accumulation test of subsection (b), or

"(2)(A) meets the guideline premium requirements of subsection (c), and

"(B) falls within the cash value corridor of subsection (d).

"(b) CASH VALUE ACCUMULATION TEST FOR SUBSECTION (a)(1).—

"(1) IN GENERAL.—A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

"(2) RULES FOR APPLYING PARAGRAPH (1).—Determinations under paragraph (1) shall be made—

"(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract,

"(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3), and

"(C) by taking into account under subparagraphs (A) and (C) of subsection (e)(1) only current and future death benefits and qualified additional benefits.

"(c) GUIDELINE PREMIUM REQUIREMENTS.—For purposes of this section—

"(1) IN GENERAL.—A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

"(2) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(A) the guideline single premium, or

"(B) the sum of the guideline level premiums to such date.

"(3) GUIDELINE SINGLE PREMIUM.—

"(A) IN GENERAL.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract.

"(B) BASIS ON WHICH DETERMINATION IS MADE.—The determination under subparagraph (A) shall be based on—

"(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

"(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and

"(iii) interest at the greater of an annual effective rate of 6 percent or the minimum rate or rates guaranteed on issuance of the contract.

"(C) WHEN DETERMINATION MADE.—Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

"(4) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting '4 percent' for '6 percent'.

"(d) CASH VALUE CORRIDOR FOR PURPOSES OF SUBSECTION (a)(2)(B).—For purposes of this section—

"(1) IN GENERAL.—A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

"(2) APPLICABLE PERCENTAGE.—

"In the case of an insured with an attained age as of the beginning of the contract year of:		The applicable percentage shall decrease by a ratable portion for each full year:	
More than:	But not more than:	From:	To:
0	40	250	250
40	45	250	250
45	50	215	185
50	55	185	150
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

"(e) COMPUTATIONAL RULES.—

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

"(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

"(B) the maturity date, including the date on which any benefit described in subparagraph (C) is payable, shall be no earlier than the day on which the insured attains age 95, and no later than the day on which the insured attains age 100, and

"(C) the amount of any endowment benefit (or sum of endowment benefits, including any cash surrender value on the maturity date described in subparagraph (B)) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

"(2) LIMITED INCREASES IN DEATH BENEFIT PERMITTED.—Notwithstanding paragraph (1)(A)—

"(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract, and

"(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the contract will meet such test at all times assuming that the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95) is substituted for the net single premium.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PREMIUMS PAID.—

"(A) IN GENERAL.—The term 'premiums paid' means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies and less any other amounts received with respect to the contract which are specified in regulations.

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED TO POLICYHOLDER.—If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph

(B) shall be includible in the gross income of the recipient.

"(2) CASH VALUES.—

"(A) CASH SURRENDER VALUE.—The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

"(B) NET SURRENDER VALUE.—The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

"(3) DEATH BENEFIT.—The term 'death benefit' means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

"(4) FUTURE BENEFITS.—The term 'future benefits' means death benefits and endowment benefits.

"(5) QUALIFIED ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) family term coverage,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed under regulations.

"(B) TREATMENT OF QUALIFIED ADDITIONAL BENEFITS.—For purposes of this section, qualified additional benefits shall not be treated as future benefits under the contract, but the charges for such benefits shall be treated as future benefits.

"(C) TREATMENT OF OTHER ADDITIONAL BENEFITS.—In the case of any additional benefit which is not a qualified additional benefit—

"(i) such benefit shall not be treated as a future benefit, and

"(ii) any charge for such benefit which is not prefunded shall not be treated as a premium.

"(6) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

"(7) ADJUSTMENTS.—

"(A) IN GENERAL.—In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary there shall be proper adjustments in future determinations made under this section.

"(B) CERTAIN CHANGES TREATED AS EXCHANGE.—In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.

"(8) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

"(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

"(9) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS.—In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

"(g) TREATMENT OF CONTRACTS WHICH DO NOT MEET SUBSECTION (a) TEST.—

"(1) POLICYHOLDER'S CONTRACT TREATED AS ANNUITY CONTRACT.—

"(A) IN GENERAL.—If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), such policyholder shall, for purposes of this title for such taxable year and any succeeding taxable year, be treated as having purchased an annuity contract for an amount equal to the cash value of such contract as of the beginning of such taxable year (or, if lesser, the investment in the contract as of such date).

"(B) TREATMENT OF AMOUNTS USED TO PAY COSTS OF LIFE INSURANCE PROTECTION.—In the case of any taxable year for which a contract is treated as an annuity contract under subparagraph (A), the excess (if any) of—

"(i) the cost of life insurance protection provided under the contract for such taxable year, over

"(ii) the amount of premiums paid under the contract during such taxable year reduced by any policyholder dividends received during such taxable year,

shall be treated as an amount received by the taxpayer during such taxable year to which section 72(e) applies.

"(C) COST OF LIFE INSURANCE PROTECTION.—For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

"(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

"(ii) the mortality charge (if any) stated in the contract.

"(2) IMPOSITION OF 10-PERCENT EXCISE TAX ON LIFE INSURANCE COMPANY.—

"(A) IN GENERAL.—If at any time any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), there is hereby imposed on the person issuing such contract a tax equal to the sum of—

"(i) 10 percent of the net surrender value of such contract as of such time, and

"(ii) 100 percent of any tax imposed by clause (i) which is passed on to the policyholder.

"(B) TAX TREATED AS IMPOSED UNDER SUBTITLE D.—For purposes of this title, any tax imposed under subparagraph (A) shall be treated as a tax imposed under subtitle D.

"(3) TREATMENT OF AMOUNT PAID ON DEATH OF INSURED.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

"(h) ENDOWMENT CONTRACTS RECEIVE SAME TREATMENT.—

"(1) IN GENERAL.—References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

"(2) DEFINITION OF ENDOWMENT CONTRACT.—For purposes of this title (other than paragraph (1)), the term 'endowment contract' means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

"(i) TRANSITIONAL RULE FOR CERTAIN 20-PAY CONTRACTS.—

"(1) IN GENERAL.—In the case of a qualified 20-pay contract, this section shall be applied by substituting '3 percent' for '4 percent' in subsection (b)(2).

"(2) QUALIFIED 20-PAY CONTRACT.—For purposes of paragraph (1), the term 'qualified 20-pay contract' means any contract which—

"(A) requires at least 20 nondecreasing annual premium payments, and

"(B) is issued pursuant to an existing plan of insurance.

"(3) EXISTING PLAN OF INSURANCE.—For purposes of this subsection, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) 1-YEAR EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—

(1) IN GENERAL.—Paragraph (1) of section 266(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1985".

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 101(f) is amended by striking out "flexible premium life insurance contract" and inserting in lieu thereof "flexible premium life insurance contract issued before January 1, 1984".

(B) The subsection heading of subsection (f) of section 101 is amended by striking out "FLEXIBLE PREMIUM CONTRACTS" and inserting in lieu thereof "FLEXIBLE PREMIUM CONTRACTS ISSUED BEFORE JANUARY 1, 1984".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7702. Life insurance contract defined.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED DURING 1984.—

(A) IN GENERAL.—The amendments made by this section shall also apply to any contract issued during 1984 if—

(i) such contract was not issued to a pre-March 15, 1984, plan of insurance, or

(ii) such contract provides an increasing death benefit and has premium funding more rapid than 10-year level premium payments.

(B) PRE-MARCH 15, 1984, PLAN OF INSURANCE.—For purposes of subparagraph (A), the term 'pre-March 15, 1984, plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before March 15, 1984, and which is on file in the appropriate State for such contract.

(3) EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—The amendments made by subsection (b) shall take effect on January 1, 1984.

(4) SPECIAL RULE FOR MASTER CONTRACT.—For purposes of this subsection, in the case of a master contract, the date taken into account with respect to any insured shall be the first date on which such insured is covered under such contract.

SEC. 222. TREATMENT OF CERTAIN ANNUITY CONTRACTS.

(a) PENALTY ON PREMATURE DISTRIBUTIONS.—Paragraph (1) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(1) IMPOSITION OF PENALTY.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount which is includible in gross income.".

(b) REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ANNUITY STARTING DATE.—Section 72 (relating to annuities; certain proceeds of endowment, and life insurance contracts) is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ANNUITY STARTING DATE.—

"(1) IN GENERAL.—A contract shall not be treated as an annuity contract for purposes of this title unless it provides that, if the holder of such contract dies before the annuity starting date—

"(A) except as provided in subparagraphs (B) and (C), the entire interest in such contract will be distributed within 5 years after his death,

"(B) in the case of any interest in the contract to which the surviving spouse of the decedent succeeds, the entire amount of such interest will be distributed not later than the date 5 years after the death of the surviving spouse, and

"(C) in the case of any interest in the contract to which a qualified dependent succeeds, the entire amount of such interest will be distributed to such qualified dependent not later than the date on which such dependent attains age 26.

Nothing in subparagraph (B) or (C) shall require a distribution to be made earlier than the time on which such distribution is required to be made under subparagraph (A).

"(2) SPECIAL RULE FOR HANDICAPPED DEPENDENTS.—If—

"(A) a qualified dependent who is a handicapped individual succeeds to the decedent's interest in the contract, and

"(B) the distribution of such qualified dependent's interest begins before such dependent attains age 26 and is over a period not in excess of the life of such dependent,

for purposes of paragraph (1)(C), the qualified dependent's interest in the contract shall be treated as if it were distributed to such dependent before the date on which he attains age 26.

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

"(A) QUALIFIED DEPENDENT.—The term 'qualified dependent' means any dependent (as defined in section 152) of the holder of the contract (or his surviving spouse) for any 2 of the last 5 taxable years of such holder (or surviving spouse).

"(B) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who is permanently and totally disabled (within the meaning of section 37(d)(3)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued after the day which is 6 months after the date of the enactment of this Act in taxable years ending after such date.

SEC. 223. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) SECTION 79 EXTENDED TO FORMER EMPLOYEES.—

(1) Section 79 (relating to group-term insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

"(e) EMPLOYEE INCLUDES FORMER EMPLOYEE.—For purposes of this section, the term 'employee' includes a former employee.".

(2) Paragraph (1) of section 79(b) is amended to read as follows:

"(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)),".

(b) AMOUNT OF INCLUSION IN CASE OF DISCRIMINATORY PLANS.—Paragraph (1) of section 79(d) (relating to nondiscrimination requirements) is amended to read as follows:

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan—

"(A) subsection (a)(1) shall not apply with respect to any key employee, and

"(B) the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsection (c)."

(c) CLARIFICATION OF COORDINATION WITH SECTION 83.—Subsection (e) of section 83 (relating to application of section) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph:

"(5) the cost of group-term life insurance to which section 79 applies.".

(d) 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, 1983.

(2) INCLUSION OF FORMER EMPLOYEES IN THE CASE OF EXISTING GROUP-TERM INSURANCE PLANS.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply—

(i) to any group-term life insurance plan of the employer in existence on January 1, 1984, or

(ii) to any group-term life insurance plan of the employer (or a successor employer) which is a comparable successor to a plan described in clause (i),

but only with respect to an individual who attained age 55 on or before January 1, 1984.

(B) SPECIAL RULE IN THE CASE OF DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—In the case of any plan which, after March 15, 1987, is a discriminatory group-term life insurance plan (as defined in section 79(d) of the Internal Revenue Code of 1954), subparagraph (A) shall not apply in the case of any individual retiring under such plan after March 15, 1987.

(C) BENEFITS TO CERTAIN RETIRED INDIVIDUALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER PLAN IS DISCRIMINATORY.—For purposes of determining whether after March 15, 1987, a plan described in subparagraph (A) meets the requirements of section 79(d) of the Internal Revenue Code of 1954 with respect to group-term life insurance for former employees, coverage provided to employees who retired on or before March 15, 1987, shall not be taken into account.

SEC. 224. TREATMENT OF CERTAIN EXCHANGES OF INSURANCE POLICIES.

(a) GENERAL RULE.—Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "a life insurance company as defined in section 801" and inserting in lieu thereof "an insurance company subject to tax under subchapter L".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all exchanges whether before, on, or after the date of the enactment of this Act.

Subtitle C—Studies

SEC. 231. STUDIES.

(a) REVENUE REPORTS.—Not later than July 1, 1984, and July 1 of each calendar year thereafter, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) the aggregate amount of revenue received under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 for the most recent taxable years for which data are available,

(2) a comparison between the amount of such revenue and the amount anticipated by reason of changes made by the Tax Equity and Fiscal Responsibility Act of 1982 or the Life Insurance Tax Act of 1984, and

(3) the reasons for any difference between such aggregate revenues and anticipated revenues.

(b) REPORT WITH RESPECT TO SEGMENT BALANCE, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a full and complete study of the operation of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 during 1984, 1985, and 1986. Such study shall also include an analysis of life insurance products and the taxation thereof. Such study shall also include an analysis of whether part I of such subchapter L operates as a disincentive to growing companies.

(2) ITEMS TO BE INCLUDED.—The study conducted under paragraph (1) shall include—

(A) an analysis of the portion of the taxes paid by mutual life insurance companies and stock life insurance companies, and

(B) any other data considered relevant by either stock life insurance companies or mutual life insurance companies in determining appropriate segment balance, such as the respective amounts of the following items held by each segment of the industry—

(i) equity,

(ii) life insurance reserves,

(iii) other types of reserves,

(iv) dividends paid to policyholders and shareholders,

(v) pension business,

(vi) total assets, and

(vii) gross receipts.

Such report shall also include an analysis of the extent to which taxes paid by stockholders of life insurance companies shall be included in analyzing segment balance.

(3) REPORTS.—

(A) INTERIM REPORTS.—The Secretary of the Treasury shall submit interim reports on the study conducted under this subsec-

tion to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986, 1987, and 1988.

(B) FINAL REPORT.—Not later than January 1, 1989, the Secretary of the Treasury shall submit a final report on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) AUTHORITY TO REQUIRE DATA.—The Secretary of the Treasury shall have authority to require reporting of such data with respect to life insurance companies and their products as may be necessary to carry out the purposes of this section.

TITLE III—REVISION OF PRIVATE FOUNDATION PROVISIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Private Foundation Tax Treatment Revision Act of 1984".

SEC. 302. LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS TO PRIVATE FOUNDATIONS.

(a) INCREASE IN PERCENTAGE LIMITATION FOR INDIVIDUALS.—Paragraph (1) of section 170(b) (relating to percentage limitations for individuals) is amended—

(1) by striking out "described in subparagraph (D)" in subparagraph (A)(vii) and inserting in lieu thereof "as defined in section 509(a)",

(2) by striking out subparagraph (D), and

(3) by redesignating subparagraph (E) as subparagraph (D).

(b) CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—The first sentence of section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) in the case of a charitable contribution of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), 40 percent (28/46 in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 1984.

SEC. 303. EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS FROM EXCISE TAX ON INVESTMENT INCOME.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS.—

"(1) IN GENERAL.—No tax shall be imposed by this section on any private foundation which is an exempt operating foundation for the taxable year.

"(2) EXEMPT OPERATING FOUNDATION.—For purposes of this subsection, the term 'exempt operating foundation' means, with respect to any taxable year, any private foundation if—

"(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

"(B) such foundation has been publicly supported for at least 10 taxable years,

"(C) at all times during the taxable year, the governing body of such foundation—

"(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

"(ii) is broadly representative of the general public, and

"(D) at no time during the taxable year does such foundation have an officer who is a disqualified individual.

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

"(A) PUBLICLY SUPPORTED.—A private foundation is publicly supported for a taxable year if it meets the requirements of section 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

"(B) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to any private foundation, an individual who is—

"(i) a substantial contributor to the foundation,

"(ii) an owner of more than 20 percent of—

"(I) the total combined voting power of a corporation,

"(II) the profits interest of a partnership, or

"(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation, or

"(iii) a member of the family of any individual described in clause (i) or (ii).

"(C) SUBSTANTIAL CONTRIBUTOR.—The term 'substantial contributor' means a person who is described in section 507(d)(2).

"(D) FAMILY.—The term 'family' has the meaning given to such term by section 4946(d).

"(E) CONSTRUCTIVE OWNERSHIP.—The rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of subparagraph (B)(ii).".

(b) REQUIREMENT OF EXPENDITURE RESPONSIBILITY NOT TO APPLY TO CERTAIN OPERATING FOUNDATIONS.—Paragraph (4) of section 4945(d) (defining taxable expenditure) is amended to read as follows:

"(4) as a grant to an organization unless—

"(A) such organization is described in paragraph (1), (2), or (3) of section 509(a) or is an exempt operating foundation (as defined in section 4940(d)(2)), or

"(B) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or".

(c) EFFECTIVE DATE.—

(1) FOR SUBSECTION (a).—THE AMENDMENT MADE BY SUBSECTION (A) SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1984.

(2) FOR SUBSECTION (b).—The amendment made by subsection (b) shall apply to grants made after December 31, 1984, in taxable years ending after such date.

(3) CERTAIN EXISTING FOUNDATIONS.—A foundation which was an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1954) as of January 1, 1983, shall be treated as meeting the requirements of section 4940(d)(2)(B) of such Code (as added by subsection (a)).

SEC. 304. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

(a) GENERAL RULE.—Subchapter C of chapter 42 (relating to abatement of second tier taxes) is amended by redesignating section 4962 as section 4963 and by inserting after section 4961 the following new section:

"SEC. 4962. ABATEMENT OF PRIVATE FOUNDATION FIRST TIER TAXES IN CERTAIN CASES.

"(a) GENERAL RULE.—If it is established to the satisfaction of the Secretary that—

"(1) a taxable event was due to reasonable cause and not to willful neglect, and

"(2) such event was corrected within the correction period for such event,

then any private foundation first tier tax imposed with respect to such event (including interest) shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

"(b) PRIVATE FOUNDATION FIRST TIER TAX.—For purposes of this section, the term 'private foundation first tier tax' means any first tier tax imposed by subchapter A of chapter 42, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subchapter C of chapter 42 is amended to read as follows:

"Subchapter C—Abatement of First and Second Tier Taxes in Certain Cases".

(2) The table of sections for subchapter C of chapter 42 is amended by striking out the item relating to section 4962 and inserting in lieu thereof the following:

"Sec. 4962. Abatement of private foundation first tier taxes in certain cases.

"Sec. 4963. Definitions."

(3) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Abatement of first and second tier taxes in certain cases."

(4) Sections 4942(g)(2)(C), 6213(e), and 6503(g) are each amended by striking out "section 4962(e)" and inserting in lieu thereof "section 4963(e)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events occurring after December 31, 1984.

SEC. 305. CERTAIN RELIANCE RULES.

(a) RELIANCE UPON DETERMINATIONS BY THE SECRETARY.—Section 4946 (relating to special rules for application of the private foundation rules) is amended by adding at the end thereof the following subsection:

"(e) RELIANCE UPON DETERMINATIONS BY THE SECRETARY.—A grant by a private foundation to an organization which has been determined by the Secretary to be an organization described in paragraph (1), (2), or (3) of section 509(a) or in paragraph (3) of section 4942(j) shall be treated as a grant to such an organization provided that the grant or other expenditure is made prior to the earlier of the date of publication of notice by the Secretary that the organization is no longer described in paragraph (1), (2), or (3) of section 509(a) or in paragraph (3) of section 4942(j) or the date on which the foundation acquires actual knowledge that the organization has been notified by the Secretary of such a change in the organization's status, and provided that the foundation was not responsible for (other than by making a grant or grants) or aware of such a change in the organization's status.".

(b) The amendments made by this section shall apply to grants made after December 31, 1984.

SEC. 306. MISCELLANEOUS AMENDMENTS.

(a) DEFINITION OF FAMILY MEMBER.—Subsection (d) of section 4946 (defining members of family) is amended to read as follows:

"(d) MEMBERS OF FAMILY.—For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, children, grandchildren, and the spouses of children and grandchildren.".

(b) REQUIREMENT THAT ANNUAL NOTICE INCLUDE TELEPHONE NUMBER OF THE PRIVATE FOUNDATION.—Subsection (d) of section 6104 (relating to public inspection of private foundations' annual returns) is amended by striking out "shall state the address of the private foundation's principal office" and inserting in lieu thereof "shall state the address and the telephone number of the private foundation's principal office".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. 307. ADDITIONAL PERIOD TO DISPOSE OF GIFTS, BEQUESTS, ETC. WHERE DISPOSITION NOT POSSIBLE DURING ORIGINAL 5-YEAR PERIOD.

(a) IN GENERAL.—Section 4943(c) (defining excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(7) ADDITIONAL PERIOD TO DISPOSE OF GIFTS, BEQUESTS, ETC. WHERE DISPOSITION NOT POSSIBLE DURING ORIGINAL 5-YEAR PERIOD.—

"(A) IN GENERAL.—The Secretary may extend for one additional period the application of paragraph (6) to holdings described in such paragraph if the Secretary determines that—

"(i) the private foundation has made diligent efforts during the 5-year period described in paragraph (6) to dispose of such holdings,

"(ii) disposition of such holdings within the 5-year period described in paragraph (6) was not possible (other than at substantially below fair market value) by reason of—

"(I) the large fair market value of such holdings,

"(II) the complex structure or diversity of holdings of the underlying business enterprise in which such holdings represent an interest,

"(III) any Federal, State, or local law which effectively prevented disposition of such holdings during the 5-year period described in paragraph (6), or

"(IV) any order of any Federal or State court which effectively prevented disposition of such holdings during the 5-year period described in paragraph (6); and

"(iii) the foundation meets the requirements of subparagraph (B).

"(B) FOUNDATION TO SUBMIT PLAN TO APPROPRIATE STATE OFFICIALS.—A foundation meets the requirements of this subparagraph if the private foundation—

"(i) submits to the Secretary, within the period under paragraph (6), a plan under which, as determined by the Secretary, the disposition of such holdings may reasonably be expected to occur before the end of the additional period described in subparagraph (A), and

"(ii) submits—

"(I) the plan described in clause (i) to the Attorney General (or other appropriate State official) having administrative or supervisory authority or responsibility with respect to the foundation's disposition of the excess business holdings described in paragraph (6), and

"(II) to the Secretary any response of the Attorney General (or other appropriate State official) to such plan.

"(C) ADDITIONAL PERIOD.—

"(i) BEGINNING DATE.—The additional period shall begin on the date on which the 5-year period described in paragraph (6) ends.

"(ii) LENGTH OF ADDITIONAL PERIOD.—The length of the additional period described in subparagraph (A) shall be 5 years plus the number of days that a court order described in clause (iii) is in effect after the last day of the 5-year period described in paragraph (6).

"(iii) COURT ORDER.—A court order is described in this clause if it is issued by a Federal or State court before the expiration of the additional period described in subparagraph (A) and it prohibits the disposition during such additional period of holdings described in paragraph (6) with respect to which the 5-year period described in paragraph (6) has been extended under this paragraph.".

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 4943(c) of the Internal Revenue Code of 1954 is amended by inserting "or (7)" after "paragraph (5)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to business holdings with respect to which the 5-year period described in section 4943(c)(6) of the Internal Revenue Code of 1954 ends on or after November 1, 1983.

(2) TRANSITIONAL RULE.—Any plan submitted to the Secretary of the Treasury or his delegate on or before the 60th day after the date of the enactment of this Act shall be treated as submitted before the close of the initial 5-year period referred to in section 4943(c)(7)(B) of the Internal Revenue Code of 1954 (as added by subsection (a)).

SEC. 308. DECREASES ATTRIBUTABLE TO STOCK ISSUANCES NOT TO REDUCE PERMITTED PERCENTAGE OF HOLDINGS WHERE DECREASE IS 2 PERCENT OR LESS.

(a) GENERAL RULE.—The second sentence of clause (ii) of section 4943(c)(4)(A) (relating to present holdings) is amended to read as follows:

"For purposes of the preceding sentence, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be disregarded so long as—

"(I) the net percentage decrease disregarded under this sentence does not exceed 2 percent, and

"(II) the number of shares held by the foundation is not affected by any such issuance or redemption.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to increases and decreases occurring after the date of the enactment of this Act.

SEC. 309. AGGREGATION OF STOCK HOLDINGS OF PRIVATE FOUNDATION AND DISQUALIFIED PERSONS IN APPLYING 95 PERCENT OWNERSHIP TEST.

(a) GENERAL RULE.—Clause (i) of section 4943(c)(4)(B) (relating to present holdings) is amended by striking out "the private foundation has" and inserting in lieu thereof "the private foundation and all disqualified persons have".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 101(b) of the Tax Reform Act of 1969.

SEC. 310. 5-YEAR PERIOD TO DISPOSE OF EXCESS HOLDINGS RESULTING FROM CERTAIN ACQUISITIONS BY DISQUALIFIED PERSONS.

(a) GENERAL RULE.—Paragraph (6) of section 4943(c) (relating to 5-year period to dispose of gifts, bequests, etc.) is amended by adding at the end thereof the following new sentence:

"In any case where an acquisition by a disqualified person would result in a substitution under clause (i) or (ii) of subparagraph (D) of paragraph (4), the preceding sentence shall be applied with respect to such acquisition as if it did not contain the phrase 'or by a disqualified person' in the material preceding subparagraph (A)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 311. RETENTION OF BUSINESS HOLDINGS BY CERTAIN PRIVATE FOUNDATIONS.

Section 101(l)(4) of the Tax Reform Act of 1969 (26 U.S.C. 4940 note) (relating to savings provisions for section 4943) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) Section 4943 of the Internal Revenue Code of 1954 (other than the phrase 'but in no event shall the percentage so substituted be more than 50 percent' in subsection (c)(4)(A)(i), and subsection (c)(4)(D)) shall apply to any excess business holdings held, or treated as held under section 4943(c)(5) of such Code, on May 26, 1969, by a private foundation if on and after the date of divestiture of such holdings required under section 4943, such foundation meets all of the following conditions:

"(I) Disqualified persons (other than persons who are disqualified persons solely as foundation managers) and officers, directors, or employees of any business enterprise in which such foundation has such excess business holdings do not together constitute more than 25 percent of the governing board of such foundation.

"(II) Directors, trustees, or officers of the foundation do not together constitute more than 25 percent of the governing board of any such business enterprise.

"(III) No disqualified person (other than persons who are disqualified persons solely as foundation managers) can be a foundation manager after March 12, 1984, unless such person was a foundation manager on March 12, 1984.

"(IV) No disqualified person receives compensation (or payment or reimbursement of expenses) from both the foundation and any such business enterprise, other than director fees (and the payment or reimbursement of expenses incident thereto) which are not excessive.

"(V) Such foundation does not incur liability for any taxes imposed under section 4942 of such Code.

"(VI) Such foundation does not incur liability for any taxes imposed under section 4943 of such Code with respect to holdings of any business enterprise in which such foundation has holdings subject to this clause.

"(ii) For purposes of this subparagraph, the terms 'disqualified person' and 'foundation manager' have the meaning given to such terms by subsections (a) and (b) of section 4946 of such Code, respectively.".

SEC. 312. TAX ON SELF-DEALING NOT TO APPLY TO CERTAIN STOCK PURCHASES.

(a) GENERAL RULE.—Section 4941 of the Internal Revenue Code of 1954 (relating to taxes on self-dealing) shall not apply to the purchase during 1978 of stock from a private foundation (and to any note issued in connection with such purchase) if—

(1) consideration for such purchase equaled or exceeded the fair market value of such stock,

(2) the purchaser of such stock did not make any contribution to such foundation at any time during the 5-year period ending on the date of such purchase,

(3) the aggregate contributions to such foundation by the purchaser before such date were less than $10,000 and less than 2 percent of the total contributions received by the foundation as of such date, and

(4) such purchase was pursuant to the settlement of litigation involving the purchaser.

(b) STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 313. PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR AFTER 10 YEARS WITH NO CONNECTION TO FOUNDATION.

(a) GENERAL RULE.—Paragraph (2) of section 507(d) (defining substantial contributor) is amended by adding at the end thereof the following new subparagraph:

"(C) PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR IN CERTAIN CASES.—

"(i) IN GENERAL.—A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

"(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

"(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

"(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

"(ii) RELATED PERSON.—For purposes of clause (i), the term 'related person' means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 314. OTHER AMENDMENTS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—

(1) Subparagraph (B) of section 4942(a)(2) (relating to taxes on failure to distribute income) is amended by striking out "subsection (j)(4)" and inserting in lieu thereof "subsection (j)(2)".

(2) Paragraph (1) of section 4942(f) (defining adjusted net income) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (j)".

(3) Paragraph (3) of section 6501(n) (relating to special rule for chapter 42 and similar taxes) is amended by striking out "section 4942(g)(2)(B)(i)(II)" and inserting in lieu thereof "section 4942(g)(2)(B)(ii)".

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) AMENDMENT OF 1969 TAX REFORM ACT.—

(1) Subparagraph (A) of section 101(l)(4) of the Tax Reform Act of 1969 is amended by striking out "by substituting '51 percent' for '50 percent'" and inserting in lieu thereof "as if it did not contain the phrase ', but in no event shall the percentage so substituted be more than 50 percent'".

(2) The amendment made by paragraph (1) shall apply as if included in the amendment made by section 101(l)(4) of the Tax Reform Act of 1969.

(c) REQUIRED DISTRIBUTION INCREASED BY AMOUNT OF CERTAIN REPAYMENTS, ETC.—

(1) Paragraph (1) of section 4942(d) (defining distributable amount) is amended to read as follows:

"(1) the sum of the minimum investment return plus the amounts described in subsection (f)(2)(C), reduced by".

(2) The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1984.

(d) EXCEPTION TO DEFINITION OF DISQUALIFIED PERSONS.—

(1) Subsection (d) of section 4943 (relating to definitions and special rules with respect to taxes on excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(4) DISQUALIFIED PERSON.—The term 'disqualified person' (as defined in section 4946(a)) does not include a plan described in section 4975(e)(7) with respect to the holdings of a private foundation described in paragraph (4) or (5) of subsection (c).".

(2) The amendment made by paragraph (1) shall apply with respect to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ENTERPRISE ZONES

SEC. 401. SHORT TITLE.

This title may be cited as the "Enterprise Zone Act of 1984".

SEC. 402. PURPOSES.

It is the purpose of this title to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels;

(2) regulatory relief at the Federal, State, and local levels; and

(3) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations.

SUBTITLE A—DESIGNATION OF ENTERPRISE ZONES

SEC. 411. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—DESIGNATION OF ENTERPRISE ZONES

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as an enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (e).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1985.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate—

"(I) more than 75 nominated areas as enterprise zones under this section, and

"(II) more than 25 nominated areas as enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-third must be areas—

"(I) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available),

"(II) which are outside of a metropolitan statistical area (within the meaning of section 103A(l)(4)(B)), or

"(III) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as an enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Devel-

opment that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as an enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subclause (I) or (III) of subsection (a)(2)(C)(ii)) is located within a metropolitan statistical area (within the meaning of section 103A (1)(4)(B)) with a population of 50,000 or more, or

"(II) 1,000 in any other case, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, and general distress,

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section, and

"(C) one of the following criteria is met—

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period, or

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract, (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was at least 20 percent for the period to which such data relates, or

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(iv) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available.)

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the enterprise zone,

"(B) an increase in the level or efficiency of local services within the enterprise zone, for example, crime prevention,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the enterprise zone.

"(3) LATER MODIFICATION OF A COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures for modifying a course of action under paragraph (1) following designation.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the strongest and highest quality contributions (other than those described in subsection (d)(2)) have been promised as part of the course of action,

"(2) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation,

"(3) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone,

"(4) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(5) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(6) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(f) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recog-

nized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D—DESIGNATION OF ENTERPRISE ZONES".

SEC. 412. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the fourth calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones under section 7891 of the Internal Revenue Code of 1954, and at the close of each fourth calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 413. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7891 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or Federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of an enterprise zone under section 7891 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act (42 U.S.C. 4341) or other provisions of Federal law relating to the protection of the environment.

SUBTITLE B—FEDERAL INCOME TAX INCENTIVES

PART I—CREDITS FOR EMPLOYERS AND EMPLOYEES

SEC. 421. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44I. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) LIMITATIONS BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under any section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an enterprise zone employment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an enterprise zone employment credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1984, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(C) SPECIAL RULE IF PERIOD OF ZONE EXTENDS MORE THAN 15 YEARS.—If the number of taxable years during the period—

"(i) beginning with the taxable year after the unused credit year, and

"(ii) ending with the taxable year in which the designation of the enterprise zone to which the credit under subsection (a) relates expires under section 7891,

exceeds 15, then subparagraph (A) shall be applied by substituting such number for '15', such number plus 3 for '18', and such number plus 2 for '17'.

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306 (b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in derermining the economically disadvantaged credit amount under subsection (d).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the enterprise zone was designated as such under section 7891, or

"(ii) the date on which the enterprise zone is designated under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (f)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for the taxable year for which the amount of the credit under subsection (a) is being computed.

"(d) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

"If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of starting date	50
More than 36 months but less than 49 months after such date	40
More than 48 months but less than 61 months after such date	30
More than 60 months but less than 73 months after such date	20
More than 72 months but less than 85 months after such date	10
More than 84 months after such date	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time—

"(i) during which the individual is unemployed, and

"(ii) by any period of time before the designation of the area as an enterprise zone

under section 7891 during which the individual is employed by a taxpayer while the area is designated as an enterprise zone under State law enacted after January 1, 1981.

"(e) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(f) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM CREDIT IS ALLOWED UNDER SECTION 44b.—The term 'qualified employee' shall not include an individual with respect to whom any credit is allowed the employer for the taxable year under section 44B (relating to credit for employment of certain new employees).

"(g) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7891 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51 (d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51 (d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family that had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs that on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY 1 INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 44F(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (c)(2)(A), and the base period wages determined under subsection (c)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (e)(2) and the 90 percent and 50 percent tests set forth in subsection (f)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(i) PHASEOUT OF CREDIT.—In determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the earlier of—

"(i) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7891, or

"(ii) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7891(b)(1)(B),

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.

"(j) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during the 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit allowed under subsection (a) for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) Subsection not to apply in certain cases.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before, the close of the period referred to in paragraph (1), becomes disabled and therefore is unable to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under this subpart.".

(b) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for that portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

"(d) RULE FOR SECTION 44I CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 44I (relating to the employment credit for enterprise zone businesses). This subsection shall be applied under a rule similar to the rule under the last sentence of subsection (b).".

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subparagraph (B) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended—

(i) by striking out "or 44F" in clause (i) and inserting in lieu thereof "44F, or 44I", and

(ii) by inserting "44I (b)(1)," after "44F (g)(1)," in clause (ii).

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(31) CREDIT UNDER SECTION 44I.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44I, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44I in respect to the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused credits and capital losses), as in effect for taxable years to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(i) by inserting "to any unused credit of the corporation under section 44I(b)(2)," after "44G(b)(2)," and

(ii) by inserting "ENTERPRISE ZONE EMPLOYMENT CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(D) Section 383 (as in effect on the day before the amendments made by the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44I(b)(2)," after "44G(b)(2)," and

(ii) by inserting "ENTERPRISE ZONE EMPLOYMENT CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "enterprise zone employment credits," after "employee stock ownership credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and enterprise zone employment credit carryback.".

(B) Section 6411 (relating to quick refunds in respect to tentative carryback adjustments) is amended—

(i) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused enterprise zone employment credit carryback";

(ii) by inserting ", by an enterprise zone employment credit carryback provided by section 44I(b)(2)," after "by an employee stock ownership credit carryback provided by section 44G(b)(2)" in the first sentence of subsection (a);

(iii) by striking out "or employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "employee stock ownership credit carryback, or enterprise zone employment credit carryback from"; and

(iv) by striking out "research and experimental credit carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or in the case of an enterprise zone employment credit carryback, to an investment credit carryback, a new employee credit carryback, or an employee stock ownership credit carryback).".

(d) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44H and 44I".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44I. Credit for enterprise zone employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 422. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 221, is amended by inserting immediately before section 45 the following new section:

"SEC. 44J. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) IN GENERAL.—In the case of a qualified employee, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the qualifed wages for the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual—

"(A) who is described in section 44I(f)(1), and

"(B) who is not an employee of the Federal Government, of any State or local government, or any political subdivision of a State or local government.

"(2) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, attributable to services performed for an employer with respect to whom the employee is a qualified employee, in an amount which does not exceed 1½ times the dollar limitation specified in such subsection.

"(B) EXCEPTION.—The term 'qualified wages' does not include any compensation received from the Federal Government, any State or local government, or any political subdivision of a State or local government.

"(c) PHASEOUT OF CREDIT.—In determining the amount of the credit for the taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 7891 occurs, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).".

(b) REPORTING REQUIREMENTS.—Subpart C of part III of subchapter A of chapter 61 (relating to information regarding wages paid employees) is amended by adding at the end thereof the following new section:

"SEC. 6054. REPORTING OF ENTERPRISE ZONE EMPLOYEE CREDITS.

"Every employer shall furnish to each employee who is a qualified employee of the employer (within the meaning of section 44J(b)(1)) a written statement showing the amount of qualified wages (within the meaning of section 44J(b)(2)) paid by the employer to such employee. The statement required to be furnished pursuant to this section shall be furnished at such time, shall contain such other information, and shall be in such form as the Secretary may by regulations prescribe. When required by such regulations, a duplicate of any such statement shall be filed with the Secretary.".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6652(a)(1) (relating to failure to file information returns) is amended—

(A) by striking out "or" at the end of clause (v), and

(B) by inserting after clause (vi) the following new clause:

"(vii) section 6054 (relating to reporting of enterprise zone employee credits),".

(2) Section 6674 (relating to fraudulent statement or failure to furnish statement to employee) is amended by striking "or 6053(b)" each place it appears and inserting in lieu thereof ", 6053(b) or 6054".

(3) The table of sections for subpart C of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6054. Reporting of enterprise zone employee credits.".

(4) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately before the item relating to section 45 of the following new item:

"SEC. 44J. CREDIT FOR ENTERPRISE ZONE EMPLOYEES."

(5) Subsection (b) of section 6096, as amended by section 201, is amended by striking out "and 44I" and inserting in lieu thereof "44I, and 44J".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years after December 31, 1984.

PART II—CREDITS FOR INVESTMENT IN TANGIBLE PROPERTY IN ENTERPRISE ZONES

SEC. 431. INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE PROPERTY.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) in the case of enterprise zone property, the enterprise zone percentage."

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

"(G) ENTERPRISE ZONE PERCENTAGE.—

"(i) IN GENERAL.—

"For purposes of this paragraph—

"In the case of enterprise zone expenditures with respect to:	The enterprise zone percentage is:
Zone personal property (within the meaning of section 48(s)(3))	5
New zone construction property (Within the meaning of section 48(s)(4)	10

"(ii) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Clause (i) shall be applied by substituting the following percentages for 5 percent and 10 percent, respectively:

"(I) For the taxable year described in section 44I(i)(1)(A), 3.75 and 7.5.

"(II) For the next succeeding taxable year, 2.5 and 5.

"(III) For the second next succeeding taxable year, 1.25 and 2.5.

"(IV) For any subsequent taxable year, zero.

"(iii) REGULAR PERCENTAGE NOT TO APPLY TO CERTAIN PROPERTY.—For purposes of this paragraph, the regular percentage shall not apply to any enterprise zone property which, but for section 48(s)(1), would not be section 38 property.".

(3) ORDERING RULES.—That portion of paragraph (7) of section 46(a) (relating to special rules in the case of energy property) which precedes subparagraph (B) is amended to read as follows:

"(7) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY OR ENTERPRISE ZONE PROPERTY.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage or the enterprise zone percentage,

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property, and

"(iii) third with respect to so much of the credit allowed by section 38 as is attributable to the application of the enterprise zone percentage to enterprise zone property."

(4) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraphs:

"(9) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowable by section 38 which is attributable to the enterprise zone percentage.".

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules), as amended by this Act, is amended by redesignating subsection (s) as subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) ENTERPRISE ZONE PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—In the case of enterprise zone property—

"(A) such property shall be treated as meeting the requirements of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property.

"(2) The term 'enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 168(e)(4)(D)), and

"(C) acquired and first placed in service by the taxpayer in an enterprise zone during the period the designation as a zone is in effect under section 7891.

"(3) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 10-year property; and

"(D) 15-year public utility property,

which is used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the enterprise zone on any regular basis.

"(4) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means 15-year real property or 20-year real property which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7891, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in subparagraph (C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection during such period.

"(5) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental purposes shall be treated as the active conduct of a trade or business in an enterprise zone.

"(6) DEFINITIONS.—For purposes of this subsection, the terms '3-year property,' '5-year property,' '10-year property,' '15-year real property,' '20-year real property' and '15-year public utility property', have the meanings given such terms by section 168(c)(2).".

(d) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit—

"(i) is disposed of, or

"(ii) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(iii) is removed from the enterprise zone, converted, or otherwise ceases to be enterprise zone property (other than by the expiration or revocation of the designation as an enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(2)(A)(v) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for earnings and profits under section 312(k).".

(e) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—

(1) IN GENERAL.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a)(2) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(s)(4)),

paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 196 (relating to deductions for certain unused investment credits) is amended by striking out "rehabilitated buildings" and inserting in lieu thereof "rehabilitation and enterprise zone expenditures".

(f) INVESTMENT CREDIT CARRYOVER PERIOD EXTENDED.—Paragraph (1) of section 46(b) (relating to carryover and carryback of unused credits) is amended by adding at the end thereof the following new sentence: "If the number of taxable years during the period beginning with the taxable years following the unused credit year and ending with the taxable year in which the designation of the enterprise zone to which the unused credit relates expires under section 7891 exceeds 15, then the preceding sentence shall be applied by substituting such number for '15,' such number plus 3 for '18,' and such number plus 2 for '17'.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1984, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

PART III—REDUCTION IN CAPITAL GAIN TAX RATES

SEC. 441. CORPORATIONS.

(a) GENERAL RULE.—Subsection (a) of section 1201 (relating to alternative tax for corporations), as amended by this Act, is amended by inserting "and the qualified enterprise zone net capital gain" after "qualified corporate gain" in paragraph (3)(B).

(b) DEFINITION OF QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—Section 1201 is amended by redesignating subsections (b) and (c) as subsections (c) and (d) and by inserting after subsection (a) the following new subsection:

"(b) QUALIFIED ENTERPRISE ZONE NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enterprise zone net capital gain' means the amount of net capital gain for any taxable year determined by taking into account only gains and losses from the sale or exchange of capital assets which are gain which is—

"(A) attributable to the sale or exchange of qualified enterprise zone property, and

"(B) properly allocable only to periods during which such property is qualified enterprise zone property.

"(2) SPECIAL RULES RELATING TO INTERESTS IN BUSINESSES.—

"(A) CERTAIN GAINS AND LOSSES NOT TAKEN INTO ACCOUNT.—In determining the amount

of qualified enterprise zone net capital gain for any taxable year under paragraph (1), there shall not be taken into account any gains or losses attributable to the sale or exchange of an interest in a qualified enterprise zone business to the extent such gain or losses are attributable to—

"(i) any property contributed to such qualified enterprise zone business during the 12-month period before such sale or exchange,

"(ii) any interest in any business which is not a qualified enterprise zone business, or

"(iii) any intangible property to the extent not properly attributable to the active conduct of a trade or business within an enterprise zone.

"(B) PERIODS FOR WHICH GAINS AND LOSSES ALLOCABLE.—For purposes of determining under paragraph (1)(B) gains or losses properly allocable to an interest in a qualified enterprise zone business, there shall only be taken into account the taxable years of such business during which it meets the requirements of paragraph (3)(B).

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

"(A) The term 'qualified enterprise zone property' means—

"(i) any tangible personal property used by the taxpayer predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(ii) any real property located in an enterprise zone used by the taxpayer predominantly in the active conduct of a trade or business within such enterprise zone, and

"(iii) any interest in a corporation, partnership, or other entity if, for the two most recent taxable years of such entity—

"(I) ending before the date of disposition of such interest, and

"(II) beginning after the date of the designation as an enterprise zone of the area in which such entity is engaged in the active conduct of a trade or business,

such entity was a qualified enterprise zone business.

"(B) QUALIFIED ENTERPRISE ZONE BUSINESS.—The term 'qualified enterprise zone business' means, with respect to any taxable year, any person—

"(i) actively engaged in the conduct of a trade or business within an enterprise zone during such taxable year,

"(ii) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) substantially all of the tangible assets of which are located within an enterprise zone during such taxable year.

"(C) REAL ESTATE RENTAL.—For purposes of this subsection, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(D) PROPERTY REMAINS QUALIFIED AFTER ZONE DESIGNATION CEASES TO APPLY.—

"(i) IN GENERAL.—The treatment of property as qualified property under subparagraph (A) shall not terminate when the designation of the enterprise zone in which the property is located or used expires or is revoked.

"(ii) EXCEPTIONS.—Clause (i) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.".

SEC. 442. TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 100 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified enterprise zone net capital gain (as defined in section 1201(b)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A).".

SEC. 443. MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, gain attributable to qualified enterprise zone net capital gain (within the meaning of section 1201(b)) shall not be taken into account.".

SEC. 444. EFFECTIVE DATE.

The amendments made by this part shall apply to sales or exchanges after December 31, 1984.

PART IV—RULES RELATING TO INDUSTRIAL DEVELOPMENT BONDS

SEC. 451. INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended—

(1) by striking out "or" at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(v) as enterprise zone property (within the meaning of section 48(s)).".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1984, in taxable years ending after such date.

PART V—SENSE OF THE CONGRESS WITH RESPECT TO TAX SIMPLIFICATION

SEC. 461. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

SUBTITLE C—REGULATORY FLEXIBILITY

SEC. 471. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified enterprise zone business; any governments which designated and approved an area which has been designated as an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 44I(f) of such Code).".

SEC. 472. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as an enterprise zone under section 7891 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating "Sec. 611." and "Sec. 612." and "Sec. 613.", respectively, and inserting the following new item immediately after "Sec. 610.":

"Sec. 611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means".

(d) Section 613 of such title, redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 473. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

SUBTITLE D—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. 481. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprize zone designated pursuant to section 7891 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes," approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

TITLE V—FOREIGN SALES CORPORATIONS

SECTION 501. SHORT TITLE.

This title may be cited as the "Foreign Sales Corporation Act of 1984".

SEC. 502. FOREIGN SALES CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources outside the United States) is amended by inserting after subpart B the following new subpart:

"Subpart C—Taxation of Foreign Sales Corporations

"SEC. 921. EXEMPT FOREIGN TRADE INCOME EXCLUDED FROM GROSS INCOME.

"(a) EXCLUSION.—Exempt foreign trade income of a FSC shall be treated as foreign source income which is not effectively connected with the conduct of a trade or business within the United States.

"(b) PROPORTIONATE ALLOCATION OF DEDUCTIONS TO EXEMPT FOREIGN TRADE INCOME.—Any deductions of the FSC properly apportioned and allocated to the foreign trade income derived by a FSC from any transaction shall be allocated between—

"(1) the exempt foreign trade income derived from such transaction, and

"(2) the foreign trade income (other than exempt foreign trade income) derived from such transaction,

on a proportionate basis.

"(c) DENIAL OF CREDITS.—Notwithstanding any other provision of this chapter, no credit (other than a credit allowable under section 27(a), 33, or 34) shall be allowed under this chapter to any FSC.

"(d) FOREIGN TRADE INCOME, INVESTMENT INCOME, AND CARRYING CHARGES TREATED AS EFFECTIVELY CONNECTED WITH UNITED STATES BUSINESS.—For purposes of this chapter—

"(1) all foreign trade income of a FSC other than—

"(A) exempt foreign trade income, and

"(B) section 923(a)(2) non-exempt income,

"(2) all interest, dividends, royalties, and other investment income received by a FSC, and

"(3) all carrying charges received by a FSC,

shall be treated as income effectively connected with the conduct of a trade or business conducted through a permanent establishment of such corporation within the United States. Income described in paragraph (1) shall be treated as derived from sources within the United States.

"SEC. 922. FSC DEFINED.

"(a) FSC DEFINED.—For purposes of this title, the term 'FSC' means any corporation—

"(1) which—

"(A) was created or organized—

"(i) under the laws of any foreign country which meets the requirements of section 927(e)(3), or

"(ii) under the laws applicable to any possession of the United States,

"(B) has no more than 25 shareholders at any time during the taxable year,

"(C) does not have any preferred stock outstanding at any time during the taxable year,

"(D) during the taxable year—

"(i) maintains an office located outside the United States,

"(ii) maintains a set of the permanent books of account of such corporation at such office, and

"(iii) maintains at a location within the United States the records which such corporation is required to keep under section 6001.

"(E) at all times during the taxable year, has a board of directors which includes at least one individual who is not a resident of the United States, and

"(F) is not a member, at any time during the taxable year, of any controlled group of corporations of which a DISC is a member, and

"(2) which has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a FSC.

"(b) SMALL FSC DEFINED.—For purposes of this title, a FSC is a small FSC with respect to any taxable year if—

"(1) such corporation has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a small FSC, and

"(2) such corporation is not a member, at any time during the taxable year, of a controlled group of corporations which includes a FSC unless such other FSC has also made an election under paragraph (1) which is in effect for such year.

"SEC. 923. EXEMPT FOREIGN TRADE INCOME.

"(a) EXEMPT FOREIGN TRADE INCOME.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'exempt foreign trade income' means the aggregate amount of all foreign trade income of a FSC for the taxable year which is described in paragraph (2) or (3).

"(2) INCOME DETERMINED WITHOUT REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction to which paragraph (3) does not apply, 34 percent of the foreign trade income derived from such transaction shall be treated as described in this paragraph. For purposes of the preceding sentence, foreign trade income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 927(a)(2) (relating to intangibles).

"(3) INCOME DETERMINED WITH REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction with respect to which paragraph (1) or (2) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) applies, 17/23 of the foreign trade income derived from such transaction shall be treated as described in this paragraph.

"(4) SPECIAL RULE FOR FOREIGN TRADE INCOME ALLOCABLE TO A COOPERATIVE.—

"(A) IN GENERAL.—In any case in which a qualified cooperative is a shareholder of a FSC, paragraph (3) shall be applied with respect to that portion of the foreign trade income of such FSC for any taxable year which is properly allocable to such cooperative by substituting '100 percent' for '17/23'.

"(B) PARAGRAPH ONLY TO APPLY TO AMOUNTS FSC DISTRIBUTES.—Subparagraph (A) shall not apply for any taxable year unless the FSC distributes to the qualified cooperative the amount which (but for such subparagraph) would not be treated as exempt foreign trade income. Any distribution under this subparagraph for any taxable year—

"(i) shall be made before the due date for filing the return of tax for such taxable year, but

"(ii) shall be treated as made on the last day of such taxable year.

"(b) FOREIGN TRADE INCOME DEFINED.—For purposes of this subpart, the term 'foreign trade income' means the gross income of a FSC attributable to foreign trading gross receipts.

"SEC. 924. FOREIGN TRADING GROSS RECEIPTS.

"(a) IN GENERAL.—Except as otherwise provided in this section, for purposes of this subpart, the term 'foreign trading gross receipts' means the gross receipts of any FSC which are—

"(1) from the sale, exchange, or other disposition of export property,

"(2) from the lease or rental of export property for use by the lessee outside the United States,

"(3) for services which are related and subsidiary to—

"(A) any sale, exchange, or other disposition of export property by such corporation, or

"(B) any lease or rental of export property described in paragraph (2) by such corporation,

"(4) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

"(5) for the performance of managerial services for an unrelated FSC in furtherance of the production of foreign trading gross receipts described in paragraph (1), (2), or (3) (whether or not the FSC has any gross receipts from any activity described in any such paragraph).

"(b) FOREIGN MANAGEMENT AND FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a FSC shall be treated as having foreign trading gross receipts for the taxable year only if the management of such corporation during such taxable year takes place outside the United States as required by subsection (c), and

"(B) a FSC has foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by subsection (d).

"(2) EXCEPTION FOR SMALL FSC.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any small FSC.

"(B) LIMITATION ON AMOUNT OF FOREIGN TRADING GROSS RECEIPTS OF SMALL FSC TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—Any foreign trading gross receipts of a small FSC for the taxable year which exceed $5,000,000 shall not be taken into account in determining the exempt foreign trade income of such corporation and shall not be taken into account under any other provision of this subpart.

"(ii) ALLOCATION OF LIMITATION.—If the foreign trading gross receipts of a small FSC exceed the limitation of clause (i), the corporation may allocate such limitation among such gross receipts in such manner as it may select (at such time and in such manner as may be prescribed in regulations).

"(iii) RECEIPTS OF CONTROLLED GROUP AGGREGATED.—For purposes of applying clauses (i) and (ii), all small FSC's which are members of the same controlled group of corporations shall be treated as a single corporation.

"(iv) ALLOCATION OF LIMITATION AMONG MEMBERS OF CONTROLLED GROUP.—The limitation under clause (i) shall be allocated among the foreign trading gross receipts of small FSC's which are members of the same controlled group of corporations in a manner provided in regulations prescribed by the Secretary.

"(c) REQUIREMENT THAT FSC BE MANAGED OUTSIDE THE UNITED STATES.—The management of a FSC meets the requirements of this subsection for the taxable year if—

"(1) all meetings of the board of directors of the corporation, and all meetings of the shareholders of the corporation, are outside the United States,

"(2) the principal bank account of the corporation is maintained outside the United States at all times during the taxable year, and

"(3) all dividends, legal and accounting fees, and salaries of officers and members of the board of directors of the corporation disbursed during the taxable year are disbursed out of bank accounts of the corporation maintained outside the United States.

"(d) REQUIREMENT THAT ECONOMIC PROCESSES TAKE PLACE OUTSIDE THE UNITED STATES.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to the gross receipts of a FSC derived from any transaction if—

"(A) such corporation (or any person acting under a contract with such corporation) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

"(B) the foreign direct costs incurred by the FSC attributable to the transaction equal or exceed 50 percent of the total direct costs incurred by the FSC attributable to the transaction.

"(2) ALTERNATIVE 85-PERCENT TEST.—A corporation shall be treated as satisfying the requirements of paragraph (1)(B) with respect to any transaction if, with respect to each of at least 2 paragraphs of subsection (e), the foreign direct costs incurred by such corporation attributable to activities described in such paragraph equal or exceed 85 percent of the total direct costs attributable to activities described in such paragraph.

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

"(A) TOTAL DIRECT COSTS.—The term 'total direct costs' means, with respect to any transaction, the total direct costs incurred by the FSC attributable to activities described in subsection (e) performed at any location by the FSC or any person acting under a contract with such FSC.

"(B) FOREIGN DIRECT COSTS.—The term 'foreign direct costs' means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

"(4) RULES FOR COMMISSIONS, ETC.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (e) in the case of commissions, rentals, and furnishing of services.

"(e) ACTIVITIES RELATING TO DISPOSITION OF EXPORT PROPERTY.—The activities referred to in subsection (d) are—

"(1) advertising and sales promotion,

"(2) the processing of customer orders and the arranging for delivery of the export property,

"(3) transportation from the time of acquisition by the FSC (or, in the case of a

commission relationship, from the beginning of such relationship for such transaction) to the delivery to the customer,

"(4) the determination and transmittal of a final invoice or statement of account and the receipt of payment, and

"(5) the assumption of credit risk.

"(f) BURDEN OF PROOF REGARDING FOREIGN MANAGEMENT AND ECONOMIC PROCESS REQUIREMENTS.—

"(1) IN GENERAL.—In any judicial or administrative proceeding involving the issue of whether—

"(A) a FSC meets the requirements of subsection (c) for a taxable year, or

"(B) a transaction meets the requirements of subsection (d),

the burden of proof with respect to such issue shall be upon the Secretary if a written statement addressing such issue has been filed by an officer of such corporation under paragraph (2).

"(2) AFFIDAVIT.—An authorized officer of a FSC who is a citizen and resident of the United States may file with the Secretary (at such time and in such manner as the Secretary shall by regulations prescribe) a verified written statement made by such officer under penalties of perjury which—

"(A) declares that such corporation meets the requirements of subsection (c) for the taxable year and specifies how such requirements have been met, or

"(B) declares that specified transactions of such corporation for the taxable year meet the requirements of subsection (d) and specifies how such requirements have been met.

"(g) CERTAIN RECEIPTS NOT INCLUDED IN FOREIGN TRADING GROSS RECEIPTS.—

"(1) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS AND RECEIPTS FROM RELATED PARTIES EXCLUDED.—The term 'foreign trading gross receipts' shall not include receipts of a FSC from a transaction if—

"(A) the export property or services—

"(i) are for ultimate use in the United States, or

"(ii) are for use by the United States or any instrumentality thereof and such use of export property or services is required by law or regulation,

"(B) such transaction is accomplished by a subsidy granted by the United States or any instrumentality thereof, or

"(C) such receipts are from another FSC which is a member of the same controlled group of corporations of which such corporation is a member.

"(2) ONE-HALF OF RECEIPTS FROM MILITARY PROPERTY EXCLUDED.—The term 'foreign trading gross receipts' shall not include 50 percent of the gross receipts for the taxable year attributable to the disposition of, or services relating to, military property (within the meaning of section 995(b)(3)(B)).

"(3) INVESTMENT INCOME; CARRYING CHARGES.—The term 'foreign trading gross receipts' shall not include any investment income or carrying charges.

"SEC. 925. TRANSFER PRICING RULES.

"(a) IN GENERAL.—In the case of a sale of export property to a FSC by a person described in section 482, the taxable income of such FSC and such person shall be based upon a transfer price which would allow such FSC to derive taxable income attributable to such sale (regardless of the sales price actually charged) in an amount which does not exceed the greatest of—

"(1) 1.83 percent of the foreign trading gross receipts derived from the sale of such property by such FSC,

"(2) 23 percent of the combined taxable income of such FSC and such person which is attributable to the foreign trading gross receipts derived from the sale of such property by such FSC, or

"(3) taxable income based upon the sale price actually charged (but subject to the rules provided in section 482).

Paragraphs (1) and (2) shall apply only if the FSC meets the requirements of subsection (c) with respect to the sale.

"(b) RULES FOR COMMISSIONS, RENTALS, AND MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth—

"(1) rules which are consistent with the rules set forth in subsection (a) for the application of this section in the case of commissions, rentals, and other income, and

"(2) rules for the allocation of expenditures in computing combined taxable income under subsection (a)(2) in those cases where a FSC is seeking to establish or maintain a market for export property.

"(c) REQUIREMENTS FOR USE OF ADMINISTRATIVE PRICING RULES.—A sale by a FSC meets the requirements of this subsection if—

"(1) all of the activities described in section 924(e) attributable to such sale, and

"(2) all of the activities relating to the solicitation (other than advertising), negotiation, and making of the contract for such sale,

have been performed by such FSC (or by another person acting under a contract with such FSC).

"(d) LIMITATION ON GROSS RECEIPTS PRICING RULE.—The amount determined under subsection (a)(1) with respect to any transaction shall not exceed 2 times the amount which would be determined under subsection (a)(2) with respect to such transaction.

"(e) TAXABLE INCOME.—For purposes of this section, the taxable income of a FSC shall be determined without regard to section 921.

"(f) SPECIAL RULE FOR COOPERATIVES.—In any case in which a qualified cooperative sells export property to a FSC, in computing the combined taxable income of such FSC and such organization for purposes of subsection (a)(2), there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

"SEC. 926. DISTRIBUTIONS TO SHAREHOLDERS.

"(a) DISTRIBUTIONS MADE FIRST OUT OF FOREIGN TRADE INCOME.—For purposes of this title, any distribution to a shareholder of a FSC by such FSC which is made out of earnings and profits shall be treated as made—

"(1) first, out of earnings and profits attributable to foreign trade income, to the extent thereof, and

"(2) then, out of any other earnings and profits.

"(b) DISTRIBUTIONS BY FSC TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS TREATED AS UNITED STATES CONNECTED.—For purposes of this title, any distribution by a FSC which is made out of earnings and profits attributable to foreign trade income to any shareholder of such corporation which is a foreign corporation or a nonresident alien individual shall be treated as a distribution—

"(1) which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States, and

"(2) of income which is derived from sources within the United States.

"(c) FSC INCLUDES FORMER FSC.—For purposes of this section, the term 'FSC' includes a former FSC.

"SEC. 927. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) EXPORT PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'export property' means property—

"(A) manufactured, produced, grown, or extracted in the United States by a person other than a FSC,

"(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business, by, or to, a FSC, for direct use, consumption, or disposition outside the United States, and

"(C) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation.

"(2) EXCLUDED PROPERTY.—The term 'export property' shall not include—

"(A) property leased or rented by a FSC for use by any member of a controlled group of corporations of which such FSC is a member,

"(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, for commercial or home use), good will, trademarks, trade brands, franchises, or other like property,

"(C) oil or gas (or any primary product thereof), or

"(D) products the export of which is prohibited or curtailed under section 7(a) of the Export Administration Act of 1979 to effectuate the policy set forth in paragraph (2)(C) of section 3 of such Act (relating to the protection of the domestic economy).

"(3) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, he may by Executive order designate the property as in short supply. Any property so designated shall not be treated as export property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President's determination that the property is no longer in short supply.

"(4) QUALIFIED COOPERATIVE.—The term 'qualified cooperative' means any organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

"(b) GROSS RECEIPTS.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'gross receipts' means—

"(A) the total receipts from the sale, lease, or rental of property held primarily for sale, lease, or rental in the ordinary course of trade or business, and

"(B) gross income from all other sources.

"(2) GROSS RECEIPTS TAKEN INTO ACCOUNT IN CASE OF COMMISSIONS.—In the case of commissions on the sale, lease, or rental of property, the amount taken into account for purposes of this subpart as gross receipts

shall be the gross receipts on the sale, lease, or rental of the property on which such commissions arose.

"(c) INVESTMENT INCOME.—For purposes of this subpart, the term 'investment income' means—

"(1) dividends,

"(2) interest,

"(3) royalties,

"(4) annuities,

"(5) rents (other than rents from the lease or rental of export property for use by the lessee outside of the United States),

"(6) gains from the sale or exchange of stock or securities,

"(7) gains from futures transactions in any commodity on, or subject to the rules of, a board of trade or commodity exchange (other than gains which arise out of a bona fide hedging transaction reasonably necessary to conduct the business of the FSC in the manner in which such business is customarily conducted by others),

"(8) amounts includible in computing the taxable income of the corporation under part I of subchapter J, and

"(9) gains from the sale or other disposition of any interest in an estate or trust.

"(d) OTHER DEFINITIONS.—For purposes of this subpart—

"(1) CARRYING CHARGES.—The term 'carrying charges' means—

"(A) carrying charges, and

"(B) under regulations prescribed by the Secretary, any amount in excess of the price for an immediate cash sale and any other unstated interest.

"(2) TRANSACTION.—

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

"(i) any sale, exchange, or other disposition,

"(ii) any lease or rental, and

"(iii) any furnishing of services.

"(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

"(3) UNITED STATES DEFINED.—The term 'United States' includes the Commonwealth of Puerto Rico.

"(4) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein, and

"(B) section 1563(b) shall not apply.

"(5) POSSESSIONS.—The term 'possession of the United States' means Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(6) SECTION 923(a)(2) NON-EXEMPT INCOME.—The term 'section 923(a)(2) non-exempt income' means any foreign trade income from a transaction with respect to which paragraph (1) or (2) of section 925(a) does not apply and which is not exempt foreign trade income.

"(e) SPECIAL RULES.—

"(1) SOURCE RULES FOR RELATED PERSONS.—Under regulations, the income of a person described in section 482 from a transaction giving rise to foreign trading gross receipts of a FSC which is treated as from sources outside the United States shall not exceed the amount which would be treated as foreign source income earned by such person if the pricing rule under section 994 which corresponds to the rule used under section 925 with respect to such transaction applied to such transaction.

"(2) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the exempt foreign trade income of a FSC for any taxable year shall be limited under rules similar to the rules of clauses (i) and (ii) of section 995(b)(1)(F).

"(3) EXCHANGE OF INFORMATION REQUIREMENTS.—For purposes of this title, the term 'FSC' shall not include any corporation which was created or organized under the laws of any foreign country unless, at the time such corporation was created or organized, there was in effect between such country and the United States—

"(A) a bilateral or multilateral agreement described in section 274(h)(6)(C), or

"(B) an income tax treaty with respect to which the Secretary certifies that the exchange of information program with such country under such treaty carries out the purposes of this paragraph.

"(4) DISALLOWANCE OF TREATY BENEFITS.—Any corporation electing to be treated as a FSC under subsection (f)(1) may not claim any benefits under any income tax treaty between the United States and the foreign country in which such corporation was created or organized.

"(5) EXEMPTION FROM CERTAIN OTHER TAXES.—No tax shall be imposed on any foreign trade income by any jurisdiction described in subsection (d)(5).

"(f) ELECTION OF STATUS AS FSC (AND AS SMALL FSC).—

"(1) ELECTION.—

"(A) TIME FOR MAKING.—An election by a corporation under section 922(a)(2) to be treated as a FSC, and an election under section 922(b)(1) to be a small FSC, shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

"(B) MANNER OF ELECTION.—An election under subparagraph (A) shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on the first day of the first taxable year for which such election is effective consent to such election.

"(2) EFFECT OF ELECTION.—If a corporation makes an election under paragraph (1), then the provisions of this subpart shall apply to such corporation for the taxable year of the corporation for which made and for all succeeding taxable years.

"(3) TERMINATION OF ELECTION.—

"(A) REVOCATION.—An election under this subsection made by any corporation may be terminated by revocation of such election for any taxable year of the corporation after the first taxable year of the corporation for which the election is effective. A termination under this paragraph shall be effective with respect to such election—

"(i) for the taxable year in which made, if made at any time during the first 90 days of such taxable year, or

"(ii) for the taxable year following the taxable year in which made, if made after the close of such 90 days, and

for all succeeding taxable years of the corporation. Such termination shall be made in such manner as the Secretary shall prescribe by regulations.

"(B) CONTINUED FAILURE TO BE FSC.—If a corporation is not a FSC for each of any 5 consecutive taxable years of the corporation for which an election under this subsection is effective, the election to be a FSC shall be terminated and not be in effect for any taxable year of the corporation after such 5th year.".

(b) DIVIDEND RECEIVED DEDUCTION FOR DOMESTIC CORPORATIONS.—

(1) IN GENERAL.—Section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a), be treated as exempt foreign trade income.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'foreign trade income' and 'exempt foreign trade income' have the meaning given such terms by section 923.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "245" each place it appears and inserting in lieu thereof "subsection (a) or (b) of section 245".

(B) Subsection (d) of section 245 (relating to property distributions), as redesignated by paragraph (1), is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "this section".

(c) CLARIFICATION OF INFORMATION EXCHANGE AGREEMENTS.—Subparagraph (D) of section 274(h)(6) (relating to coordination with section 6103) is amended—

(1) by adding at the end thereof the following new sentence: "The Secretary may exercise his authority under subchapter A of chapter 78 to carry out any obligation of the United States under an agreement referred to in subparagraph (C).", and

(2) by striking out the heading thereof and inserting in lieu thereof "COORDINATION WITH OTHER PROVISIONS.—".

(d) CONFORMING AMENDMENTS.—

(1) Section 901 (relating to foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection:

"(h) TAXES PAID WITH RESPECT TO FOREIGN TRADE INCOME.—No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC, other than section

923(a)(2) non-exempt income (within the meaning of section 927(d)(6).".

(2) Paragraph (1) of section 904(d) (relating to application of section in case of certain interest income and dividends from a DISC) as amended—

(A) by striking out "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) taxable income attributable to foreign trade income (within the meaning of section 923(b)),

"(D) distributions from a FSC (or former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)), and

"(E) income other than income described in subparagraph (A), (B), (C), or (D).", and

(C) by striking out the heading and inserting in lieu thereof:

"(d) SEPARATE APPLICATION OF SECTION WITH RESPECT TO CERTAIN INTEREST INCOME AND INCOME FROM DISC, FORMER DISC, FSC, OR FORMER FSC.—".

(3) Subsection (b) of section 906 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(5) No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC.".

(4) Section 951 (relating to amounts included in gross income of shareholders) is amended by adding at the end thereof the following new subsection:

"(e) FOREIGN TRADE INCOME NOT TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—The foreign trade income of a FSC and any deductions which are apportioned or allocated to such income shall not be taken into account under this subpart. For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.

"(2) FOREIGN TRADE INCOME.—For purposes of this subsection, the term 'foreign trade income' has the meaning given such term by section 923(b), but does not include section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).".

(5) Paragraph (4) of section 275(a) (relating to disallowance of deduction for certain taxes) is amended to read as follows:

"(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States if—

"(A) the taxpayer chooses to take to any extent the benefits of section 901, or

"(B) such taxes are paid or accrued with respect to foreign trade income (within the meaning of section 923(b)) of a FSC.".

(6) Subsection (d) of section 1248 (relating to exclusions from earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(6) FOREIGN TRADE INCOME.—Earnings and profits of the foreign corporation attributable to foreign trade income (within the meaning of section 923(b)) of a FSC.".

(7) Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended by adding at the end thereof the following new subsection:

"(f) FSC.—Subsection (a) shall not apply in the case of a Virgin Islands corporation which is a FSC.".

(8) Paragraph (2) of section 956(b) (defining United States property) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and "and", and by adding at the end thereof the following new subparagraph:

"(I) to the extent provided in regulations prescribed by the Secretary, property which is otherwise United States property which is held by a FSC and which is related to the export activities of such FSC.".

(9) Subparagraph (B) of section 7651(5) is amended by inserting "(other than subpart C of part III of subchapter N of chapter 1)" after "For purposes of this title".

(10) Section 996(g) (relating to effectively connected income) is amended by inserting "and which are derived from sources within the United States" after "United States".

SEC. 503. INTEREST CHARGE DISC.

(a) INTEREST CHARGE ON DEFERRED TAX.—Section 995 (relating to taxation of DISC income to shareholders) is amended—

(1) by striking out subsections (e) and (f),

(2) by redesignating subsection (g) as subsection (e), and

(3) by adding at the end thereof the following new subsection:

"(f) INTEREST ON DISC-RELATED DEFERRED TAX LIABILITY.—

"(1) IN GENERAL.—A shareholder of a DISC shall pay for each taxable year interest in an amount equal to the product of—

"(A) the shareholder's DISC-related deferred tax liability for such year, and

"(B) the base period T-bill rate.

"(2) SHAREHOLDER'S DISC-RELATED DEFERRED TAX LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'shareholder's DISC-related deferred tax liability' means, with respect to any taxable year of a shareholder of a DISC, the excess of—

"(i) the amount which would be the tax liability of the shareholder for the taxable year if the deferred DISC income of such shareholder for such taxable year were included in gross income as ordinary income, over

"(ii) the actual amount of the tax liability of such shareholder for such taxable year.

Determinations under the preceding sentence shall be made without regard to carrybacks to such taxable year.

"(B) ADJUSTMENTS FOR LOSSES, CREDITS, AND OTHER ITEMS.—The Secretary shall prescribe regulations which provide such adjustments—

"(i) to the accounts of the DISC, and

"(ii) to the amount of any carryover or carryback of the shareholder,

as may be necessary or appropriate in the case of net operating losses, credits, and carryovers and carrybacks of losses and credits.

"(C) TAX LIABILITY.—The term 'tax liability' means the amount of the tax imposed by this chapter for the taxable year reduced by credits allowable against such tax (other than credits allowable under sections 31, 32, and 34).

"(3) DEFERRED DISC INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'deferred DISC income' means, with respect to any taxable year of a shareholder, the excess of—

"(i) the shareholder's pro rata share of accumulated DISC income (for periods after 1983) of the DISC as of the close of the computation year, over

"(ii) the amount of the distributions-in-excess-of-income for the taxable year of the DISC following the computation year.

"(B) COMPUTATION YEAR.—For purposes of applying subparagraph (A) with respect to any taxable year of a shareholder, the computation year is the taxable year of the DISC which ends with (or within) the taxable year of the shareholder which precedes the taxable year of the shareholder for which the amount of deferred DISC income is being determined.

"(C) DISTRIBUTIONS IN EXCESS OF INCOME.—For purposes of subparagraph (A), the term 'distributions-in-excess-of-income' means, with respect to any taxable year of a DISC, the excess (if any) of—

"(i) the amount of actual distributions to the shareholder out of accumulated DISC income, over

"(ii) the shareholder's pro rata share of the DISC income for such taxable year.

"(3) BASE PERIOD T-BILL RATE.—For purposes of this subsection, the term 'base period T-bill rate' means the annual rate of interest determined by the Secretary to be equivalent to the average investment yield of United States Treasury bills with maturities of 52 weeks which were auctioned during the 1-year period ending on September 30 of the calendar year ending with (or of the most recent calendar year ending before) the close of the taxable year of the shareholder.

"(4) SHORT YEARS.—The Secretary shall prescribe such regulations as may be necessary for the application of this subsection to short years of the DISC, the shareholder, or both.

"(5) PAYMENT AND ASSESSMENT AND COLLECTION OF INTEREST.—The interest accrued during any taxable year which a shareholder is required to pay under paragraph (1) shall be treated, for purposes of this title, as interest payable under section 6601 and shall be paid by the shareholder at the time the tax imposed by this chapter for such taxable year is required to be paid.".

(b) TAXABLE INCOME IN EXCESS OF $10,000,000 DEEMED DISTRIBUTED.—

(1) IN GENERAL.—Subparagraph (E) of section 995(b)(1) (relating to based period export gross receipts) is amended to read as follows:

"(E) the taxable income of the DISC attributable to qualified export receipts of the DISC for the taxable year which exceed $10,000,000,".

(2) AGGREGATION OF RECEIPTS.—Subsection (b) of section 995 (relating to deemed distributions) is amended by adding at the end thereof the following new paragraph:

"(4) AGGREGATION OF QUALIFIED EXPORT RECEIPTS.—

"(A) IN GENERAL.—For purposes of applying paragraph (1)(E), all DISC's which are members of the same controlled group shall be treated as a single corporation.

"(B) ALLOCATION.—The dollar amount under paragraph (1)(E) shall be allocated among the DISC's which are members of the same controlled group in a manner provided in regulations prescribed by the Secretary.".

(c) ELIMINATION OF CERTAIN DEEMED DISTRIBUTIONS RELATING TO TAXABLE INCOME OF DISC.—Subparagraph (F) of section 995(b)(1) (relating to distributions in qualified years) is amended to read as follows:

"(F) the sum of—

"(i) an amount equal to the product of—

"(I) the international boycott factor determined under section 999, multiplied by

"(II) one-half of the excess of the taxable income of the DISC for the taxable year (before reduction for any distributions during the year) over the sum of the amounts deemed distributed for the taxable

year under subparagraphs (A), (B), (C), (D), and (E), plus

"(ii) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the DISC directly or indirectly to an official, employee, or agent in fact of a government, and".

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a)(1) of section 992 (relating to definition of DISC) is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) such corporation is not a member of any controlled group of which a FSC is a member.".

(2) Paragraph (3) of section 993(a) (relating to controlled groups) is amended by striking out "such term by" and inserting in lieu thereof "the term 'controlled group of corporations' by".

(3) Subsection (c) of section 999 (relating to international boycott factor) is amended by striking out "995(b)(1)(F)(ii)" each place it appears and inserting in lieu thereof "995(b)(1)(F)(i)".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by inserting after the item relating to subpart B the following new item:

"Subpart C. Taxation of foreign sales corporations.".

SEC. 504. TAXABLE YEAR OF DISC AND FSC REQUIRED TO CONFORM TO TAXABLE YEAR OF MAJORITY SHAREHOLDER.

(a) IN GENERAL.—Subsection (b) of section 441 (relating to period for computation of taxable income) is amended—

(1) by striking out "or" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(4) in the case of a FSC or DISC filing a return for a period of at least 12 months, the period determined under subsection (h).".

(b) DETERMINATION OF TAXABLE YEAR.—Section 441 is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF FSC'S AND DISC'S.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any FSC or DISC shall be the taxable year of that shareholder (or group of shareholders with the same 12-month taxable year) who has the highest percentage of voting power.

"(2) SPECIAL RULE WHERE MORE THAN ONE SHAREHOLDER (OR GROUP) HAS HIGHEST PERCENTAGE.—If 2 or more shareholders (or groups) have the highest percentage of voting power under paragraph (1), the taxable year of the FSC or DISC shall be the same 12-month period as that of any such shareholder (or group).

"(3) SUBSEQUENT CHANGES OF OWNERSHIP.—The Secretary shall prescribe regulations under which paragraphs (1) and (2) shall apply to a change of ownership of a corporation after the taxable year of the corporation has been determined under paragraph (1) or (2) only if such change is a substantial change of ownership.

"(4) VOTING POWER DETERMINED.—For purposes of this subsection, voting power shall be determined on the basis of total combined voting power of all classes of stock of the corporation entitled to vote.".

SEC. 505. EFFECTIVE DATE; TRANSITION RULES.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply to transactions after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary, subsection (c) and (d) of section 924 of the Internal Revenue Code of 1954 (as added by this Act) shall not apply to—

(A) any contract with respect to which the taxpayer uses the completed contract method of accounting and which—

(i) was entered into before March 16, 1984, or

(ii) was entered into after March 15, 1984, and before January 1, 1985, pursuant to a written plan to enter into such contract which was in effect on March 15, 1984,

(B) any contract which was entered into before March 16, 1984, except that this subparagraph shall only apply to the first 2 taxable years of the FSC ending after January 1, 1985, or

(C) any contract which was entered into after March 15, 1984, and before January 1, 1985, except that this subparagraph shall only apply to the first taxable year of the FSC ending after January 1, 1985.

(b) TRANSITION RULES FOR DISC'S.—

(1) CLOSE OF 1984 TAXABLE YEARS OF DISC'S.—

(A) IN GENERAL.—For purposes of applying the Internal Revenue Code of 1954, the taxable year of each DISC which begins before January 1, 1985, and which (but for this paragraph) would include January 1, 1985, shall close on December 31, 1984. For purposes of such Code, the requirements of section 992(a)(1)(B) of such Code (relating to percentage of qualified export assets on last day of the taxable year) shall not apply to any taxable year ending on December 31, 1984.

(B) UNDERPAYMENTS OF ESTIMATED TAX.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, no addition to tax shall be made under section 6654 or 6655 of such Code with respect to any underpayment of any installment required to be paid before April 13, 1985, to the extent the underpayment was created or increased by reason of subparagraph (A).

(2) EXEMPTION OF ACCUMULATED DISC INCOME FROM TAX.—For purposes of applying the Internal Revenue Code of 1954 with respect to actual distributions made after December 31, 1984, by a DISC or former DISC which was a DISC on December 31, 1984, any accumulated DISC income of a DISC or former DISC (within the meaning of section 996(f)(1) of such Code) which is derived before January 1, 1985, shall be treated as previously taxed income (within the meaning of section 996(f)(2) of such Code).

(3) TIME CERTAIN DISTRIBUTIONS ARE DEEMED RECEIVED BY SHAREHOLDERS.—Notwithstanding section 995(b) of such Code, if a shareholder of a DISC elects the application of this paragraph (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe by regulations) any distribution which such shareholder is deemed to have received by reason of section 995(b) of such Code with respect to income derived by the DISC in the taxable year of the DISC which begins in 1984 after the date in 1984 on which the taxable year of such shareholder begins shall be treated, for purposes of such Code, as received by such shareholder in 4 equal installments on the last day of each of the 4 taxable years of such shareholder which begins after the taxable year of such shareholder which begins in 1984. The preceding sentence shall apply without regard to whether the DISC exists after December 31, 1984.

(4) TREATMENT OF TRANSFERS FROM DISC TO FSC.—Except to the extent provided in regulations, section 367 of such Code shall not apply to transfers made before January, 1986 (or, if later, the date 1 year after the date on which the corporation ceases to be a DISC) to a FSC of qualified export assets (as defined in section 993(b) of such Code) held on August 4, 1983, by a DISC in a transaction described in section 351 or 368(a)(1) of such Code.

(5) DEFINITIONS.—For purposes of this subsection, the terms "DISC" and "former DISC" have the respective meanings given to such terms by section 992 of such Code.

(c) SPECIAL RULE FOR EXPORT TRADE CORPORATIONS.—

(1) IN GENERAL.—If, before January 1, 1985, any export trade corporation—

(A) makes an election under section 927(f)(1) of the Internal Revenue Code of 1954 to be treated as a FSC, or

(B) elects not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of pargraphs (2) and (4) of subsection (b) shall apply to such export trade corporation.

(2) EXPORT TRADE CORPORATION.—For purposes of this subsection, the term 'export trade corporation' has the meaning given such term by section 971 of the Internal Revenue Code of 1954.

TITLE VI—HIGHWAY REVENUE PROVISIONS

Subtitle A—Use Taxes

SEC. 601. REDUCTION OF HEAVY VEHICLE USE TAX.

(a) GENERAL RULE.—Subsection (a) of section 4481 (as amended by section 513(a) of the Highway Revenue Act of 1982) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semi-trailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds at the rate specified in the following table:

"Taxable gross weight:	Rate of tax:
At least 55,000 pounds, but not over 80,000 pounds.	$75 per year plus $21 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 80,000 pounds.....	$600.".

(b) SPECIAL RULES IN THE CASE OF CERTAIN OWNER-OPERATORS.—

(1) SPECIAL RULE FOR TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of a small owner-operator, the amount of the tax imposed by section 4481 of the Internal Revenue Code of 1954 on the use of any highway motor vehicle subject to tax under section 4481(a) of such Code (as amended by subsection (a)) for the taxable period which begins on July 1, 1984, shall be the lesser of—

(A) $3 for each 1,000 pounds of taxable gross weight (or fraction thereof), or

(B) the amount of the tax which would be imposed under such section 4481(a) without regard to this paragraph.

(2) EXEMPTION FOR VEHICLES USED FOR LESS THAN 5,000 MILES (AND CERTAIN OTHER AMENDMENTS) TO TAKE EFFECT ON JULY 1, 1984.—In

the case of a small owner-operator, notwithstanding subsection (f)(2) of section 513 of the Highway Revenue Act of 1982, the amendments made by subsections (b), (c), and (d) of such section shall take effect on July 1, 1984.

(3) SMALL OWNER-OPERATOR DEFINED.—For purposes of this subsection, the term "small owner-operator" has the meaning given such term by section 513(f)(2) of the Highway Revenue Act of 1982.

(4) TAXABLE GROSS WEIGHT.—For purposes of this subsection, the term 'taxable gross weight' has the same meaning as when used in section 4481 of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) (and the provisions of subsection (b)) shall take effect on July 1, 1984.

SEC. 602. SPECIAL RULE FOR TRUCKS USED IN LOGGING.

(a) IN GENERAL.—Section 4483 (relating to exemptions from highway use tax) is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e) REDUCTION IN TAX FOR TRUCKS USED IN LOGGING.—The tax imposed by section 4481 shall be reduced by 50 percent with respect to any highway motor vehicle if—

"(1) the exclusive use of such vehicle during any taxable period is the transportation, beginning at a point located on a forested site, of products harvested from such forested site, and

"(2) such vehicle is registered under the laws of the State in which such vehicle is, or is required to be, registered as a highway motor vehicle used in the transportation of harvested forest products.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1984.

SEC. 603. STUDY.

(a) GENERAL RULE.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study to determine the significance of the highway use tax imposed under section 4481 of the Internal Revenue Code of 1954 on trans-border trucking operations.

(b) REPORT.—Not later than the day 1 year after the date of the enactment of this Act, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with such recommendations as the Secretary may deem advisable.

Subtitle B—Fuel Taxes

SEC. 611. INCREASE IN DIESEL FUEL TAX.

(a) GENERAL RULE.—Paragraph (1) of section 4041(a) (relating to diesel fuel) is amended by striking out "9 cents" and inserting in lieu thereof "15 cents".

(b) INCOME TAX CREDIT FOR PURCHASE OF DIESEL-POWERED AUTOMOBILE OR LIGHT TRUCK.—Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsections (g), (h), (i), (j), (k), and (l) as subsections (h), (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (f) the following new subsection:

"(g) INCOME TAX CREDIT OR EXCISE TAX REFUND OF INCREASED DIESEL FUEL TAX TO OPERATORS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (j), the Secretary shall pay (without interest) to the owner, lessee, or other operator of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means the amount determined by multiplying—

"(A) 6 cents, by

"(B) the amount of gallons of diesel fuel used by such owner, lessee, or other operator in any qualified diesel-powered highway vehicle for which tax imposed under section 4041(a)(1) was paid.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO HIGHWAY TRUST FUND.—Paragraph (2) of section 9503(e) (relating to transfers to Mass Transit Account) is amended to read as follows:

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. For purposes of the preceding sentence, the term 'mass transit portion' means an amount determined at the rate of 1 cent for each gallon with respect to which tax was imposed under section 4041 or 4081.".

(2) CONFORMING AMENDMENTS TO INCOME TAX CREDIT.—

(A) Section 34 (as redesignated by section 851 of this Act) is amended—

(i) by inserting a comma and "in qualified diesel-powered highway vehicles," after "nontaxable purposes" in subsection (a)(3), and

(ii) by striking out "6427(i)" in subsections (a)(3) and (b) and inserting in lieu thereof "6427(j)".

(B) Subsections (a), (b)(1), (c), (d), (e)(1), and (f)(1) of section 6427 are each amended by striking out "(i)" and inserting in lieu thereof "(j)".

(C) Subsection (h)(1) of section 6427 (as redesignated by subsection (b)) is amended by striking out "or (f)" and inserting in lieu thereof "(f), or (g)".

(D) Subsection (h)(2)(A) of section 6427 (as so redesignated) is amended by striking out "and (e)" in clause (i) and inserting in lieu thereof "(e), and (g)".

(E) Subsection (j)(2) of section 6427 (as so redesignated) is amended by striking out "(g)(2)" and inserting in lieu thereof "(h)(2)".

(F) Subsection (l) of section 6427 (as so redesignated) is amended by striking out "and (d)" each place it appears and inserting in lieu thereof "(d), and (g)".

(G) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(h)(2)" each place it appears and inserting in lieu thereof "6427(i)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

SEC. 612. EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS; STUDY.

(a) IN GENERAL.—Paragraph (3) of section 6427(e) (relating to termination of use in certain taxicabs) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

(b) STUDY.—The Secretary of the Treasury or the delegate of the Secretary shall conduct a study of the reduced rate of fuels taxes provided for taxicabs by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1985, the Secretary shall transmit a report on the study conducted under the preceding sentence to the Congress, together with such recommendations as the Secretary may deem advisable.

SEC. 613. MODIFICATION OF TAX IMPOSED ON METHANOL AND ETHANOL.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(m) CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel—

"(A) subsection (a)(2) shall be applied by substituting "4½ cents" for "9 cents", and

"(B) no tax shall be imposed by subsection (c).

"(2) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—The term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 40 (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) (as redesignated by section 851 of this Act) is amended by striking out "(b)(2) or (k)" and inserting in lieu thereof "(b)(2), (k), or (m)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

SEC. 614. DECREASE IN TAX IMPOSED ON GASOHOL.

(a) AMENDMENT OF SECTION 4041.—Paragraph (1) of section 4041(k) (relating to fuels containing alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a)(1) shall be applied by substituting '9 cents' for '15 cents', and

"(B) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(C) no tax shall be imposed by subsection (c).".

(b) AMENDMENTS OF SECTION 4081.—Subsection (c) of section 4081 (relating to imposition of tax on petroleum products) is amended—

(A) by striking out "4 cents" each place it appears and inserting in lieu thereof "3 cents", and

(B) by striking out "5 cents" in paragraph (2) and inserting in lieu thereof "6 cents".

(c) CREDIT FOR ALCOHOL USED AS A FUEL.—Section 40 (relating to alcohol used as a fuel) (as redesignated by section 851 of this Act) is amended—

(1) by striking out "50 cents" each place it appears and inserting in lieu thereof "60 cents", and

(2) by striking out "37.5 cents" each place it appears and inserting in lieu thereof "45 cents".

(d) AMENDMENT OF SECTION 6427.—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels)

is amended by striking out "5 cents" and inserting in lieu thereof "6 cents".

(e) TARIFF IMPORTED FOR USE AS A FUEL.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "50 cents per gal." each place it appears and inserting in lieu thereof "60 cents per gal.".

(f) DEFINITION OF ALCOHOL.—Sections 40(d)(1)(A)(i) (as redesignated by section 851 of this Act) and 4081(c)(3) (defining alcohol) are each amended by striking out "coal" and inserting in lieu thereof "coal (including peat)".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

Subtitle C—Miscellaneous

SEC. 621. EXEMPTION FROM TAX FOR PIGGYBACK TRAILERS.

(a) IN GENERAL.—Paragraph (8) of section 4063(a) (relating to exemptions for specified articles) is amended to read as follows:

"(8) RAIL TRAILERS, RAIL VANS, AND PIGGYBACK TRAILERS.—

"(A) IN GENERAL.—The tax imposed by section 4061 shall not apply in the case of—

"(i) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car,

"(ii) any chassis or body of a piggyback trailer or semitrailer, and

"(iii) any parts or accessories designed primarily for use in connection with an article described in clause (i) or (ii).

"(B) PIGGYBACK TRAILER OR SEMITRAILER DEFINED.—For purposes of this paragraph, the term 'piggyback trailer or semitrailer' means any trailer or semitrailer—

"(i) which is designed for use principally in connection with trailer-on-flatcar service by rail, and

"(ii) with respect to which the seller certifies, in such manner and form and at such time as the Secretary prescribes by regulations, that such trailer or semitrailer—

"(I) will be used, or resold for use, principally in connection with such service, or

"(II) will be incorporated into an article which will be so used or resold.

"(C) NONQUALIFIED USE.—If any person uses or resells for use any piggyback trailer or semitrailer for a purpose other than a use described in subparagraph (B), such use or resale shall be treated as the first retail sale of such trailer or semitrailer and such person shall be liable for the tax imposed under section 4051(a).".

(b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES OF TRUCKS AND TRAILERS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where after December 2, 1982, and before the day after the date of the enactment of this Act, a tax-repealed article on which tax was imposed by section 4061(a) has been sold to an ultimate purchaser, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION OF ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection,

(B) claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before December 1, 1984, based on information submitted to the manufacturer, producer, or importer before September 1, 1984, by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser, and

(C) on or before December 1, 1984, reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4061(a) shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 512(a)(3) of the Highway Revenue Act of 1982.

SEC. 622. OTHER TECHNICAL AMENDMENTS.

(a) FLOOR STOCKS REFUNDS FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.—

(1) IN GENERAL.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by inserting "(or will be subject to a lower rate of tax under such section)" after "and which will not be subject to tax under such section".

(2) AMOUNT OF REFUND LIMITED TO REDUCTION IN TAX.—Paragraph (2) of section 523(b) of such Act is amended by adding at the end thereof the following: "In the case of any tire which is a tax-repealed article solely by reason of the parenthetical matter in paragraph (1), the amount of the credit or refund under subsection (a) shall not exceed the excess of the tax imposed with respect to such tire by section 4071(a) as in effect on December 31, 1983, over the tax which would have been imposed with respect to such tire by section 4071(a) on January 1, 1984.".

(b) FLOOR STOCKS REFUNDS FOR TREAD RUBBER.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by adding at the end thereof the following new sentence: "Any tread rubber which was subject to tax under section 4071(a)(4) as in effect on December 31, 1983, and which on January 1, 1984, is part of a retread tire which is held by a dealer and has not been used and is intended for sale shall be treated as a tax-repealed article for purposes of subsection (a) of section 522."

(c) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provisions of the Highway Revenue Act of 1982 to which such amendment relates.

TITLE VII—TAX-EXEMPT BOND PROVISIONS

Subtitle A—Mortgage Subsidy Bonds

SEC. 701. EXTENSION OF MORTGAGE SUBSIDY BOND AUTHORITY.

(a) IN GENERAL.—Subparagraph (B) of section 103A(c)(1) (defining qualified mortgage bond) is amended by striking out "December 31, 1983" in the text and in the heading and inserting in lieu thereof "December 31, 1987".

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraphs:

"(3) INFORMATION REPORTING REQUIREMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the issuer submits to the Secretary—

"(i) not later than 30 days after the date of the issue (or at such other time as the Secretary may prescribe by regulation), a written statement providing notice of the face amount of the issue, and

"(ii) not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued, a statement concerning the issue which contains—

"(I) the name and address of the issuer,

"(II) the date of the issue, the amount of the lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(III) such information as the Secretary may require in order to determine whether such issue meets the requirements of this section, and the extent to which the proceeds of such issue have been made available to low-income individuals, and

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

"(B) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statements under subparagraph (A) if there is reasonable cause for the failure to file such statement in a timely fashion.".

(c) POLICY STATEMENTS.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraph:

"(4) POLICY STATEMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the applicable elected representative of the governmental unit—

"(i) which is the issuer, or

"(ii) on whose behalf such issue was issued,

has published (after a public hearing following reasonable public notice) a report described in subparagraph (B) by December 31 of the calendar year preceding the calendar year in which such issue is issued and a copy of such report has been submitted to the Secretary prior to such date.

"(B) REPORT.—The report referred to in subparagraph (A) which is published by the applicable elected representative of the governmental unit shall include—

"(i) a statement of the housing, development, and income distribution policies which such governmental unit is to follow in issuing mortgage subsidy bonds and mortgage credit certificates, and

"(ii) an assessment of the compliance of such governmental unit during the preceding 1-year period with—

"(I) the statement of policy on mortgage subsidy bonds and mortgage credit certificates that was set forth in the previous report, if any, of an applicable elected representative of such governmental unit, and

"(II) the intent of Congress that State and local governments are expected to use their authority to issue qualified mortgage bonds and mortgage credit certificates to the greatest extent feasible (taking into account prevailing interest rates and conditions in the housing market) to assist lower income families to afford home ownership before assisting higher income families.".

(d) DEFINITIONS.—

(1) IN GENERAL.—Subsection (l) of section 103A (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(11) MORTGAGE CREDIT CERTIFICATES.—The term 'mortgage credit certificate' has the meaning given to such term by section 44K.

"(12) APPLICABLE ELECTED REPRESENTATIVE.—The term 'applicable elected representative' has the meaning given to such term by section 103(k)(2)(E).".

(2) STATISTICAL AREA.—

(A) IN GENERAL.—Paragraph (4) of section 103A(l) (relating to statistical areas) is amended to read as follows:

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.".

(B) SPECIAL RULES FOR DETERMINATION OF STATISTICAL AREA.—For purposes of applying section 103A of the Internal Revenue Code of 1954 and any other provision of Federal law—

(i) RESCISSION.—The Director of the Office of Management and Budget shall rescind the designation of the Kansas City, Missouri primary metropolitan statistical area (KCMO PMSA) and the designation of the Kansas City, Kansas primary metropolitan statistical area (Kansas City, KS PMSA), and shall not take any action to designate such two primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(ii) DESIGNATION.—The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

(I) Kansas City, Kansas.

(II) Kansas City, Missouri.

(III) The counties of Johnson, Wyandotte, Leavenworth, and Miami in Kansas.

(IV) The counties of Cass, Clay, Jackson, Platte, Ray, and Lafayette in Missouri.

The metropolitan statistical area designation pursuant to this subsection shall be known as the "Kansas City Missouri-Kansas Metropolitan Statistical Area".

(e) EFFECTIVE DATES; ANNUAL REPORT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to obligations issued after the date of enactment of this Act.

(2) POLICY STATEMENTS.—The amendment made by subsection (c) shall apply with respect to issues that are issued after December 31, 1984.

(3) TRANSITIONAL RULE WHERE STATE FORMULA FOR ALLOCATING STATE CEILING EXPIRES.—

(A) IN GENERAL.—If a State law which provided a formula for allocating the State ceiling under section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1983 expires as of the close of calendar year 1983, for purposes of section 103A(g) of such Code, such State law shall be treated as remaining in effect after 1983. In any case to which the preceding sentence applies, where the State's expiring allocation formula requires action by a State official to allocate the State ceiling among issuers, actions of such State official in allocating such ceiling shall be effective.

(B) TERMINATION.—Subparagraph (A) shall not apply on or after the effective date of any State legislation enacted after the date of the enactment of this Act with respect to the allocation of the State ceiling.

(3) ANNUAL REPORT TO CONGRESS.—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the performance of issuers of qualified mortgage bonds and mortgage credit certificates relative to the intent of Congress described in section 103A(j) of the Internal Revenue Code of 1954.

SEC. 702. CREDIT FOR INTEREST ON MORTGAGES WHERE STATE OR LOCAL AUTHORITIES ELECT NOT TO ISSUE QUALIFIED MORTGAGE BONDS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44J the following new section:

"SEC. 44K. CREDIT FOR INTEREST ON CERTAIN HOME MORTGAGES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of any taxpayer who is issued a mortgage credit certificate with respect to his principal residence, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the interest paid or accrued during the portion of such taxable year for which such certificate is in effect on the certified mortgage indebtedness specified on such certificate.

"(2) DETERMINATION OF APPLICABLE PERCENTAGE.—For purposes of this section—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), each issuing authority shall specify the applicable percentage with respect to each mortgage credit certificate. Such percentage shall not be less than 10 percent nor greater than 50 percent.

"(B) AGGREGATE LIMIT ON APPLICABLE PERCENTAGES.—In the case of any mortgage credit certificate program, the sum of the products determined by multiplying—

"(i) the amount of certified mortgage indebtedness specified on each mortgage credit certificate issued under such program with respect to any calendar year, by

"(ii) the applicable percentage with respect to such certificate,

shall not exceed 20 percent of the nonissued bond amount of such program for such calendar year.

"(b) LIMITATIONS.—

"(1) INCOME LIMITATION.—The amount of the credit allowable under subsection (a) for any taxable year shall not exceed 1/4 of the excess of—

"(A) the maximum income limit of the taxpayer for the taxable year, over

"(B) the adjusted gross income of the taxpayer for the taxable year.

"(2) MAXIMUM INCOME LIMIT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'maximum income limit' means 100 percent of the greater of—

"(i) the median income for a family of 4 for the area in which the taxpayer resides (as determined on the basis of the data most recently published by the Secretary of Housing and Urban Development as of the date of issuance of the mortgage credit certificate), or

"(ii) $20,000.

"(B) UNMARRIED TAXPAYERS WITH NO DEPENDENTS.—In the case of a taxpayer who—

"(i) is not married, and

"(ii) has no dependents for the taxable year,

subparagraph (A) shall be applied by substituting '80 percent' for '100 percent'.

"(C) TAXPAYER WITH MORE THAN 3 PERSONAL EXEMPTIONS.—If the aggregate number of exemptions allowed the taxpayer and the spouse of the taxpayer under section 151 for the taxable year exceeds 3, subparagraph (A) shall be applied by substituting '120 percent' for '100 percent'.

"(D) ADJUSTABLE RATE MORTGAGES.—The Secretary may prescribe regulations which provide that, in the case of a mortgage credit certificate issued with respect to indebtedness on which an adjustable rate of interest that may vary by more than 30 percent is payable, subparagraph (A) shall be applied—

"(i) without regard to subparagraph (B) or (C),

"(ii) by substituting '120 percent' for '100 percent' if the taxpayer is not described in subparagraph (B) or (C), and

"(iii) by substituting '140 percent' for '100 percent' if the taxpayer is described in subparagraph (C).

"(3) MARRIED INDIVIDUAL REQUIRED TO FILE JOINT RETURN.—No credit shall be allowed under subsection (a) to any taxpayer who is married and does not make a joint return with the spouse of such taxpayer for the taxable year.

"(4) RELATED PARTIES.—No credit shall be allowed under subsection (a) for any interest paid or accrued to any person who is related to the taxpayer.

"(5) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable for the taxable year under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) MORTGAGE CREDIT CERTIFICATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'mortgage credit certificate' means any certificate which—

"(A) is issued by a State (or any agency or instrumentality thereof) or a political subdivision of a State (or any agency or instrumentality thereof) under a mortgage credit certificate program,

"(B) is issued to a taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

"(C) is issued to only 1 individual or is issued jointly to 2 individuals who are married,

"(D) is issued to a taxpayer—

"(i) only after the requirements of paragraph (4) have been met,

"(ii) in the case of a certificate issued in connection with the acquisition of a residence, only after the requirements of paragraphs (1), (2), and (3) of subsection (d) have been met with respect to such residence,

"(iii) in the case of a certificate issued in connection with the qualified rehabilitation of a residence, only after the requirements of paragraphs (1), (3), and (4) of subsection (d) have been met with respect to such residence, and

"(iv) in the case of a certificate issued in connection with the qualified home improvement of a residence, only after the requirements of paragraphs (1) and (4) of subsection (d) have been met with respect to such residence,

"(E) specifies—

"(i) the applicable percentage determined under subsection (a)(2), and

"(ii) the certified mortgage indebtedness, and

"(F) is in such form as the Secretary may prescribe.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—A certificate shall not be treated as a mortgage credit certificate if—

"(i) any portion of the financing of the acquisition, qualified rehabilitation, or qualified home improvement for which such certificate is issued is provided from the proceeds of any qualified mortgage bond or qualified veterans' mortgage bond,

"(ii) such certificate and any mortgage credit certificate issued prior to the issuance of such certificate would be in effect with respect to the same residence at the same time, or

"(iii) the mortgage credit certificate program under which the certificate is issued requires the taxpayer to obtain financing of such acquisition, qualified rehabilitation, or qualified home improvement from any particular lender.

"(3) PERIOD FOR WHICH CERTIFICATE IS IN EFFECT.—A mortgage credit certificate shall be treated as in effect during the period—

"(A) beginning on the date such certificate is issued, and

"(B) ending on the date on which the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate was issued.

"(4) PUBLIC NOTICE REQUIREMENT.—The requirements of this paragraph are met if, at least 90 days before any mortgage credit certificate is to be issued under a mortgage credit certificate program, the administrator of the program provides reasonable public notice of—

"(A) the eligibility requirements for such certificate,

"(B) the methods by which such certificates are to be issued, and

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

"(d) CERTIFICATION REQUIREMENTS.—

"(1) SINGLE FAMILY RESIDENCE REQUIREMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a residence if each lender who provides financing of the acquisition, qualified rehabilitation, or qualified home improvement of such residence submits to the administrator of the mortgage credit certificate program a verified written statement—

"(i) in which such lender certifies that—

"(I) such residence is a single-family residence (within the meaning of section 103A(l)(9)), and

"(II) on the basis of information available to the lender at the time such statement is submitted to such administrator, the lender expects such residence to be the principal residence of the taxpayer within a reasonable period of time, and

"(ii) to which the lender attaches the information that the taxpayer and the spouse of the taxpayer are required to submit to the lender under subparagraph (B).

"(B) INFORMATION PROVIDED BY TAXPAYER.—The information which the taxpayer and the spouse of the taxpayer are required under this subparagraph to submit to any lender who finances the acquisition, qualified rehabilitation, or qualified home improvement of a residence of the taxpayer consists of a verified written statement in which the taxpayer and the spouse of the taxpayer certify that such taxpayer and the spouse of such taxpayer expect such residence to be (or continue to be) the principal residence of the taxpayer within (or for) a reasonable period of time.

"(2) NO HOME OWNERSHIP DURING 3 PRECEDING TAXABLE YEARS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any residence if each lender who finances the taxpayer's acquisition of such residence submits to the administrator of the mortgage credit certificate program a verified written statement—

"(i) in which the lender certifies that, on the basis of information available to the lender at the time such statement is submitted—

"(I) neither the taxpayer nor the spouse of the taxpayer has a present ownership interest in any other residence,

"(II) neither the taxpayer nor the spouse of the taxpayer has claimed (or intends to claim) a deduction for qualified housing interest (within the meaning of section 55(e)(4)) for any of the 3 taxable years preceding the taxable year in which such statement is submitted, and

"(III) the financing provided by the lender is not to be used by the taxpayer to acquire or replace an existing mortgage on such residence, and

"(ii) to which the lender attaches the information that is required to be submitted by the taxpayer and the spouse of the taxpayer under subparagraph (B).

"(B) INFORMATION PROVIDED BY TAXPAYER.—The information which the taxpayer and the spouse of the taxpayer are required under this subparagraph to submit to any lender who finances the taxpayer's acquisition of a residence consists of—

"(i) a verified written statement in which the taxpayer and the spouse of the taxpayer certify that—

"(I) neither has an interest in any other residence, and

"(II) neither has claimed (or intends to claim) a deduction for qualified housing interest (within the meaning of section 55(e)(4)) for any of the 3 taxable years preceding the taxable year in which such statement is submitted to the lender, and

"(ii) copies of those returns of the taxes imposed by this chapter for such 3 taxable years that have been filed with the Secretary prior to the date such statement is submitted to the lender.

"(3) PURCHASE PRICE REQUIREMENT.—The requirements of this paragraph are met with respect to any residence, if each lender who finances the acquisition cost of such residence submits to the administrator of the mortgage credit certificate program a verified written statement in which such lender certifies that the acquisition price of such residence does not exceed 90 percent of the average area purchase price applicable to such residence.

"(4) QUALIFIED HOME IMPROVEMENT; QUALIFIED REHABILITATION.—The requirements of this paragraph are met with respect to any residence if any lender submits to the administrator of the mortgage credit certificate program a verified written statement in which such lender certifies that the financing provided by such lender to the taxpayer—

"(A) in the case of a qualified home improvement—

"(i) is to be used for the qualified home improvement of such residence, and

"(ii) is not to be used to acquire or replace an existing mortgage on such residence, or

"(B) in the case of a qualified rehabilitation, is to be used for the qualified rehabilitation of such residence.

"(5) CERTAIN REFINANCING EXCEPTIONS.—The statement required under paragraph (2)(A) or (4) need not include the certification described in paragraph (2)(A)(i)(III) or (4)(A)(ii) if—

"(A) the lender is providing financing for the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, or

"(iii) in the case of a qualified rehabilitation, an existing mortgage, or

"(B) such statement is submitted for purposes of reissuing a mortgage credit certificate which is reissued in accordance with the regulations prescribed under subparagraph (C).

"(C) REISSUANCE OF MORTGAGE CREDIT CERTIFICATES.—The Secretary may prescribe regulations which allow the administrator of a mortgage credit certificate program to reissue a mortgage credit certificate specifying a certified mortgage indebtedness that replaces the outstanding balance of the certified mortgage indebtedness specified on the original certificate to any taxpayer to whom the original certificate was issued under such terms and conditions as the Secretary determines are necessary to ensure that the amount of the credit allowable under subsection (a) with respect to such reissued certificate is less than the amount of credit which would be allowable under subsection (a) with respect to the original certificate for any taxable year ending after such reissuance.

"(6) PERJURY PENALTIES.—Any verified written statement required under this subsection shall be made under penalties of perjury and shall contain a declaration that the statement is so made.

"(e) NONISSUED BOND AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'nonissued bond amount' means, with respect to any mortgage credit certificate program for any calendar year, the face amount of qualified mortgage bonds which the issuing authority that established or authorized such program elects under this paragraph to not issue during such calendar year for the benefit of such program.

"(2) LIMITATION.—The nonissued bond amount of a mortgage credit certificate program for any calendar year shall not exceed an amount equal to the excess of—

"(A) the applicable limit for such calendar year of the issuing authority that established or authorized such program, over

"(B) the sum of—

"(i) the aggregate face amount of qualified mortgage bonds that such issuing authority elects under paragraph (1) to not issue for the benefit of any other mortgage credit certificate program of such issuing authority for such calendar year, plus

"(ii) the face amount of qualified mortgage bonds that such issuing authority elects under paragraph (3) not to issue for such calendar year.

"(3) RELINQUISHMENT OF A PERCENTAGE OF THE SURPLUS STATE CEILING.—

"(A) IN GENERAL.—The nonissued bond amount of each mortgage credit certificate program in any State described in subparagraph (B) shall be zero for the calendar year unless one or more issuing authorities in such State elect under this paragraph to not issue during such calendar year bonds that would otherwise be qualified mortgage bonds in an aggregate face amount which equals or exceeds the product of—

"(i) the State ceiling for such calendar year, multiplied by

"(ii) the amount determined under paragraph (4) for such calendar year.

"(B) STATES TO WHICH THIS PARAGRAPH APPLIES.—A State is described in this subparagraph if the aggregate face amount of qualified mortgage bonds issued by issuing authorities in such State during calendar year 1983 was less than the State ceiling for calendar year 1983.

"(4) AMOUNT USED IN DETERMINING ELECTION UNDER PARAGRAPH (3).—The amount determined under this paragraph is—

"(A) for calendar year 1984, 75 percent of the amount determined by dividing—

"(i) the excess of—

"(I) the State ceiling for calendar year 1983, over

"(II) the aggregate face amount of qualified mortgage bonds issued by authorities in the State during 1983, by

"(ii) the State ceiling for 1983, and

"(B) for any calendar year beginning after 1984, 75 percent of the amount determined under this paragraph for the preceding calendar year.

"(5) ELECTIONS.—Any election made under paragraph (1) or (3) shall be made in such form and in such manner as the Secretary may prescribe by regulations.

"(f) DEFINITIONS.—For purposes of this section—

"(1) CERTIFIED MORTGAGE INDEBTEDNESS.—The term 'certified mortgage indebtedness' means, with respect to any mortgage credit certificate issued to the taxpayer, the aggregate amount of indebtedness incurred in connection with—

"(A) the acquisition,

"(B) the qualified rehabilitation, or

"(C) the qualified home improvement,

for which such certificate is issued.

"(2) MORTGAGE CREDIT CERTIFICATE PROGRAM.—

"(A) IN GENERAL.—The term 'mortgage credit certificate program' means any program which is established or authorized to issue mortgage credit certificates by a State (or any agency or instrumentality thereof) or a political subdivision of a State (or any agency or instrumentality thereof) for any calendar year for which it is authorized to issue qualified mortgage bonds.

"(B) AUTHORITY MAY HAVE MORE THAN 1 PROGRAM.—Each issuing authority may establish more than 1 qualified mortgage credit certificate program for any calendar year.

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the meaning given such term by section 1034.

"(4) QUALIFIED REHABILITATION.—The term 'qualified rehabilitation' has the meaning given such term by section 103A(l)(7)(B).

"(5) QUALIFIED HOME IMPROVEMENT.—The term 'qualified home improvement' means an alteration, repair, or improvement described in section 103A(l)(6).

"(6) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' has the meaning given to such term by section 103A(l)(5).

"(B) REHABILITATION LOAN.—In the case of a qualified rehabilitation loan described in section 103A(l)(7)(A)(i), the term 'acquisition cost' includes the cost of the rehabilitation.

"(7) AVERAGE AREA PURCHASE PRICE.—The term 'average area purchase price' has the meaning given to such term by section 103A(f).

"(8) STATE CEILING.—The term 'State ceiling' has the meaning given to such term by section 103A(g)(4).

"(9) APPLICABLE LIMIT.—The term 'applicable limit' has the meaning given to such term by section 103A(g), except that section 103A(g)(8) shall not apply.

"(10) RELATED PARTY.—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, any individual described in paragraphs (1) through (8) of section 152(a) shall be included as members of the family of the taxpayer.

"(11) MARITAL STATUS.—Section 143 shall apply in determining whether an individual is married.

"(g) REGULATIONS; CONTRACTS.—

"(1) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations which may require recipients of mortgage credit certificates to pay a reasonable processing fee to defray the expenses incurred in administering the program.

"(2) CONTRACTS.—The Secretary is authorized to enter into contracts with any person to provide services in connection with the administration of this section.

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A of the Internal Revenue Code of 1954 (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraphs:

"(8) REDUCTIONS FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced—

"(A) by the amount of qualified mortgage bonds which such authority elects not to issue under section 44K(e)(1), and

"(B) by the amount of qualified mortgage bonds which such authority elects not to issue under section 44K(e)(3).".

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST IF CREDIT TAKEN.—Section 163 of the Internal Revenue Code of 1954 (relating to deduction for interest) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF DEDUCTION WHERE SECTION 44K CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 44K shall be reduced by the amount of the credit allowed with respect to such interest under section 44K.".

(d) CIVIL PENALTY FOR MISSTATEMENT.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. MISSTATEMENTS MADE WITH RESPECT TO MORTGAGE CREDIT CERTIFICATES.

"(a) NEGLIGENCE.—If—

"(1) any person makes a misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

"(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of $1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

"(b) FRAUD.—If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of $10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

"(c) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' has the meaning given to such term by section 44K(c).".

(e) CONFORMING AMENDMENTS.—

(1) 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 44J the following new item:

"Sec. 44K. Credit for interest on certain home mortgages.".

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Misstatements made with respect to mortgage credit certificates.".

(f) EFFECTIVE DATE.—

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

(2) ISSUANCE OF CERTIFICATES.—Mortgage credit certificates with respect to nonissued bond amounts for 1984 may not be issued before January 1, 1985.

SEC. 703. ADVANCED REFUNDING OF CERTAIN MORTGAGE BONDS PERMITTED.

(a) IN GENERAL.—Notwithstanding section 103A(n) of the Internal Revenue Code of 1954, an issuer of applicable mortgage bonds may issue advance refunding bonds with respect to such applicable mortgage bonds.

(b) LIMITATION ON AMOUNT OF ADVANCED REFUNDING.—

(1) IN GENERAL.—The amount of advanced refunding bonds which may be issued under subsection (a) shall not exceed the lesser of—

(A) $300,000,000, or

(B) excess of—

(i) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

(ii) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds.

(2) ASSUMPTIONS USED IN MAKING PROJECTION.—The computation under paragraph (1)(B) shall be made by using the following percentages of the prepayment experience of the Federal Housing Administration in

the State or region in which the issuer of the advance refunding bonds is located:

Fiscal year:	Percentage
1984	15
1985	20
1986	25
1987 and thereafter	30.

(c) DEFINITIONS.—For purposes of this section.—

(1) APPLICABLE MORTGAGE BONDS.—The term "applicable mortgage bonds" means any qualified veterans mortgage bonds issued as part of an issue—

(A) which was outstanding on December 5, 1980,

(B) with respect to which the excess determined under subsection (b)(1) exceeds 12 percent of aggregate principal amount of such bonds outstanding on July 1, 1983,

(C) with respect to which the amount of the average annual prepayments during fiscal year 1981, 1982, and 1983 was less than 2 percent of the average of the loan balances as of the beginning of each of such fiscal years, and

(D) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

(2) QUALIFIED VETERANS MORTGAGE BONDS.—The term "qualified veterans mortgage bonds" has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

SEC. 704. ELIMINATION OF CERTAIN EXCEPTIONS TO THE APPLICATION OF THE MORTGAGE SUBSIDY BOND TAX ACT OF 1980.

Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end thereof the following new subsections:

"(p) MOST EXCEPTIONS NOT TO APPLY TO BONDS ISSUED AFTER DECEMBER 31, 1984.—In addition to any obligations to which the amendments made by section 1102 apply by reason of the provisions of this section, the amendments made by section 1102 shall apply, notwithstanding any other provision of this section (other than subsection (n)), to obligations issued after December 31, 1984, all or a major portion of the proceeds of which are used to finance new mortgages on single-family residences that are owner occupied.

"(q) REDUCTION OF STATE CEILING BY AMOUNT OF SPECIAL MORTGAGE BONDS ISSUED BEFORE 1985.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than subsections (n) and (r)), for purposes of applying section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1984 and each succeeding calendar year, the State ceiling shall be reduced by any portion of the mortgage bond carryover amount of such State which was not taken into account under this paragraph for any calendar year preceding such calendar year.

"(2) LIMITATION ON CARRYOVERS.—The portion of the mortgage bond carryover amount which may be taken into account under paragraph (1) for any calendar year beginning after December 31, 1983, shall not exceed the State ceiling for such calendar year.

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

"(A) MORTGAGE BOND CARRYOVER AMOUNT.—The term 'mortgage bond carryover amount' means, with respect to any State, the aggregate face amount of obligations—

"(i) all or a major portion of the proceeds of which are used to finance new mortgages on single-family residences that are owner occupied,

"(ii) which were issued by issuing authorities in such State after April 21, 1984, and before January 1, 1985, and

"(iii) to which the amendments made by section 1102 do not apply by reason of any provision of this section other than subsection (n).

"(B) STATE CEILING.—The term 'State ceiling' has the meaning given to such term by section 103A(g)(4) of the Internal Revenue Code of 1954.

"(C) QUALIFIED MORTGAGE BONDS.—The term 'qualified mortgage bond' has the meaning given to such term by section 103A(c) of the Internal Revenue Code of 1954.

"(r) EXCEPTIONS TO SUBSECTION (Q).—Subsection (q) shall not apply with respect to obligations—

"(1) the proceeds of which are used to finance the River Place Project located in Minneapolis, Minnesota, and

"(2) the aggregate face amount of which does not exceed $55,000,000.".

SUBTITLE B—PRIVATE ACTIVITY BONDS

SEC. 711. AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(15) AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.—

"(A) IN GENERAL.—Paragraph (6) of this subsection shall not apply to any issue if the sum of—

"(i) the aggregate authorized face amount of such issue allocated to any beneficiary under subparagraph (C), and

"(ii) the outstanding tax-exempt industrial development bonds of such beneficiary,

exceeds $40,000,000.

"(B) OUTSTANDING TAX-EXEMPT INDUSTRIAL DEVELOPMENT BONDS.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt industrial development bonds of any person who is a beneficiary of such issue is the aggregate face amount of all industrial development bonds (other than any obligation that is to be redeemed from the proceeds of such issue)—

"(i) the interest on which is exempt from tax under subsection (a),

"(ii) which are allocated to such beneficiary under subparagraph (C), and

"(iii) which are outstanding at the time of such later issue.

"(C) ALLOCATION OF FACE AMOUNT OF AN ISSUE.—

"(i) IN GENERAL.—The portion of the face amount of an issue allocated to any beneficiary of a facility financed by the proceeds of such issue (other than the lessor of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

"(ii) LESSORS.—The portion of the face amount of an issue allocated to any person who is a lessor of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility with respect to which such person is the lessor bears to the entire facility.

"(iii) BENEFICIARIES USING LESS THAN 5 PERCENT.—No portion of the face amount of an issue shall be allocated to a beneficiary who uses less than 5 percent of the facilities financed by the proceeds of such issue.

"(D) BENEFICIARY.—For purposes of this paragraph, the term 'beneficiary' means any person who is a user of the facilities being financed by the issue.

"(E) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (6)(C)) to each other shall be treated as one person.".

SEC. 712. USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, AND CERTAIN STORES.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(16) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, OR CERTAIN STORES.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to provide any airplane, skybox, or other private luxury box, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off the premises.".

SEC. 713. TAX EXEMPTION DENIED IF PROCEEDS OF ISSUE ARE USED IN CONNECTION WITH DEPOSITS OR DEBENTURES GUARANTEED BY FEDERAL GOVERNMENT.

Subsection (h) of section 103 (relating to certain obligations that must not be guaranteed or subsidized under an energy program) is amended to read as follows:

"(h) ISSUES GUARANTEED UNDER CERTAIN ENERGY PROGRAMS OR USED IN CONNECTION WITH FEDERALLY GUARANTEED DEPOSITS OR DEBENTURES.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if—

"(A) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be—

"(i) used to finance a facility with respect to which a guarantee has been made by the Administrator of the Small Business Administration under section 404 of the Small Business Investment Act of 1958, or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts,

"(B) any debenture guaranteed by the Administrator of the Small Business Administration under section 503 of the Small Business Investment Act of 1958, or any loan made with the proceeds of a debenture so guaranteed, is subordinated to such obligation, or

"(C) such obligation is described in paragraph (2).

"(2) OBLIGATIONS GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.—An obligation is described in this paragraph if—

"(A) subsection (b)(1) does not apply to such obligation by reason of subsection (b)(4)(H) or (g), and

"(B) the payment of principal or interest with respect to such obligation—

"(i) is guaranteed (in whole or in part) by the United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

"(ii) is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

"(3) EXCEPTIONS.—

"(A) DEBT SERVICE, TEMPORARY FINANCING, AND CERTAIN RESERVES.—Any proceeds of an issue which—

"(i) are invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) are used in making investments in a bona fide debt service fund, or

"(iii) are used in making investments of a reserve which meet the requirements of subsection (c)(4)(B),

shall not be taken into account under paragraph (1)(A)(ii).

"(B) REASONABLE GUARANTEE FEE.—Paragraph (1) shall not apply to any obligation described in subparagraph (A) (i) or (B) of paragraph (1) if—

"(i) the Administrator of the Small Business Administration charges a fee for making the guarantee described in such subparagraph, and

"(ii) the amount of such fee equals or exceeds—

"(I) 1 percent of the amount guaranteed, or

"(II) such other amount as the Secretary may prescribe by regulations.

"(4) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—For purposes of this section, the term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.".

SEC. 714. PRINCIPAL USERS OF CERTAIN SOLID WASTE DISPOSAL FACILITIES.

For purposes of applying subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954 with respect to capital expenditures paid or incurred after July 1, 1983, any person who—

(1) purchases steam from a solid waste disposal facility which—

(A) is a qualified steam-generating facility (within the meaning of section 103(g)(2) of such Code),

(B) is financed by the proceeds of obligations which—

(i) are described in section 103(b)(4)(E) of such Code,

(ii) are part of an issue specifically authorized—

(I) by an election held on April 26, 1983, or

(II) by State law enacted on May 19, 1983, and

(iii) are issued prior to the date that is 1 year after the date of enactment of this Act,

(C) on the date such obligations are issued, is located in an area that is not a standard metropolitan statistical area (within the meaning of section 103A(l)(4)(B) of such Code), and

(D) is owned and operated by the issuer of such obligations, and

(2) who is the only feasible user of such steam on the date on which such obligations are issued,

shall not be treated as a principal user of such facility.

SEC. 715. RESTRICTIONS ON COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

Subparagraph (B) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows:

"(B) RECOVERY METHOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	4 years
5-year property	7 years
10-year property	13 years
15-year public utility property	20 years

"(ii) 20-YEAR REAL PROPERTY.—In the case of 20-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of—

"(I) 20 years in the case of 20-year real property which is residential rental property (within the meaning of section 167(j)(2)(B)), and

"(II) 22 years in the case of any other 20-year real property.".

SEC. 716. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—

(1) IN GENERAL.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by adding at the end thereof the following new sentence: "An obligation shall not be treated as described in this paragraph unless the appropriate requirements of subsections (b), (c), (h), (k), and (l) of this section and section 103A are met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State.".

Notwithstanding any other provision of law (including section 8(b)(1) of the Revised Organic Act of 1954 but not including this title), the Virgin Islands and American Samoa shall have the authority to issue industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

(b) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph:

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses, using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).".

(c) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph—

"(A) a partnership and each of its partners (and their spouses and minor children) shall be treated as related persons, and

"(B) an S corporation and each of its shareholders (and their spouses and minor children) shall be treated as related persons.".

(d) SMALL ISSUE LIMIT IN CASE OF CERTAIN URBAN DEVELOPMENT ACTION GRANTS.—In the case of any obligation issued on December 11, 1981, section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall be applied by substituting "$15,000,000" for "$10,000,000" if—

(1) such obligation is part of an issue,

(2) substantially all of the proceeds of such issue are used to provide facilities with respect to which an urban development action grant under section 119 of the House and Community Development Act of 1974 was preliminarily approved by the Secretary of Housing and Urban Development on January 10, 1980, and

(3) the Secretary of Housing and Urban Development determines, at the time such grant is approved, that the amount of such grant will equal or exceed 5 percent of the total capital expenditures incurred with respect to such facilities.

SEC. 717. ARBITRAGE ON NONPURPOSE OBLIGATIONS.

(a) IN GENERAL.—Subsection (c) of section 103 (relating to arbitrage bonds) is amended by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following new paragraph:

"(6) INVESTMENTS IN NONPURPOSE OBLIGATIONS.—

"(A) IN GENERAL.—For purposes of this title, any obligation which is part of an issue of industrial development bonds that does not meet the requirements of subparagraphs (C) and (D) shall be treated as an obligation which is not described in subsection (a).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any obligation described in subsection (b)(4)(A), or

"(ii) any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide a sewage or solid waste disposal facility described in section 168(f)(12)(C)(ii).

"(C) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.—

"(i) IN GENERAL.—An issue meets the requirements of this subparagraph only if—

"(I) at no time during any bond year, the amount invested in nonpurpose obligations with a yield higher than the yield on the issue exceeds 150 percent of the debt service on the issue for the bond year, and

"(II) the aggregate amount invested as provided in subclause (I) is promptly and appropriately reduced as the amount of outstanding obligations of the issue is reduced.

"(ii) EXCEPTION FOR TEMPORARY PERIODS.—Clause (i) shall not apply to—

"(I) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the governmental purpose of the issue, and

"(II) temporary investment periods related to debt service.

"(iii) DEBT SERVICE DEFINED.—For purposes of this subparagraph, the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(iv) NO DISPOSITION IN CASE OF LOSS.—This subparagraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be

paid to the United States (but for such sale or disposition) at the time of such sale or disposition.

"(D) REBATE TO UNITED STATES.—An issue shall be treated as meeting the requirements of this subparagraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the aggregate amount earned on all nonpurpose obligations (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the gross proceeds of the issue were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

is paid to the United States by the issuer in accordance with the requirements of subparagraph (E).

"(E) DUE DATE OF PAYMENTS UNDER SUBPARAGRAPH (D).—The amount which is required to be paid to the United States by the issuer shall be paid in installments which are made at least once every 5 years. Each installment shall be in an amount which insures that 90 percent of the amount described in subparagraph (D) with respect to the issue at the time such installment is made will have been paid to the United States. The last installment shall be made no later than 30 days after the day on which the last obligation of the issue is redeemed and shall be in an amount sufficient to pay the remaining balance of the amount described in subparagraph (D) with respect to such issue.

"(F) SPECIAL RULES FOR APPLYING SUBPARAGRAPH (D).—

"(i) IN GENERAL.—In determining the aggregate amount earned on nonpurpose obligations for purposes of subparagraph (D)—

"(I) any gain or loss on the disposition of a nonpurpose obligation shall be taken into account, and

"(II) any amount earned on a bona fide debt service fund shall not be taken into account if the gross earnings on such fund for the bond year is less than $100,000.

"(ii) TEMPORARY INVESTMENTS.—Notwithstanding subparagraph (D), an issue shall, for purposes of this paragraph, be treated as meeting the requirements of subparagraph (D) if the gross proceeds of such issue are expended for the governmental purpose for which the bond was issued by no later than the day which is 6 months after the date of issuance of such issue.

"(G) EXEMPTION FROM GROSS INCOME OF SUM REBATED.—Gross income does not include the sum described in subparagraph (D). Notwithstanding any other provision of this title, no deduction shall be allowed for any amount paid to the United States under subparagraph (D).

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) NONPURPOSE OBLIGATIONS.—The term 'nonpurpose obligation' means any security (within the meaning of subparagraph (A) or (B) of section 165(g)(2)) or any obligation not described in subsection (a) which—

"(I) is acquired with the gross proceeds of an issue, and

"(II) is not acquired in order to carry out the governmental purpose of the issue.

"(ii) GROSS PROCEEDS.—The gross proceeds of an issue include—

"(I) amounts received (including repayments of principal) as a result of investing the original proceeds of the issue, and

"(II) amounts used to pay debt service on the issue.

"(I) YIELD.—The yield on the issue shall be determined on the basis of the issue price (within the meaning of section 1232(b)(2)).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 103A(i) (relating to arbitrage) is amended by striking out "section 103(c)" and inserting in lieu thereof "section 103(c) (other than section 103(c)(6))".

(2) Subsection (c) of section 103 is amended by striking out "Bonds" in the heading.

(3) Paragraph (1) of section 103(c) is amended by inserting "to arbitrage bonds" in the heading.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to bonds issued after December 31, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to obligations issued by the Essex County Port Authority of New York and New Jersey as part of an issue approved by Essex County, New Jersey, on July 7, 1981, and approved by the State of New Jersey on December 31, 1981. The aggregate face amount of bonds to which this paragraph applies shall not exceed $350,000,000.

SEC. 718. DENIAL OF TAX EXEMPTION TO CONSUMER LOAN BONDS.

(a) IN GENERAL.—Section 103 (relating to interest on certain governmental obligations) is amended by adding at the end thereof the following new subsection:

"(o) CONSUMER LOAN BONDS.—

"(1) DENIAL OF TAX EXEMPTION.—For purposes of this title, any consumer loan bond shall be treated as an obligation which is not described in subsection (a).

"(2) CONSUMER LOAN BONDS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'consumer loan bond' means any obligation which is issued as part of an issue all or a significant portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance loans (other than loans described in subparagraph (C)) to persons who are not exempt persons (within the meaning of subsection (b)(3)).

"(B) EXCLUDED OBLIGATIONS.—The term 'consumer loan bond' shall not include any—

"(i) qualified student loan bond,

"(ii) industrial development bond, or

"(iii) qualified mortgage bond or qualified veterans' mortgage bond.

"(C) EXCLUDED LOANS.—A loan is described in this subparagraph if the loan—

"(i) enables the borrower to finance any governmental tax or assessment of general application for an essential governmental function, or

"(ii) is used to acquire or carry nonpurpose obligations (within the meaning of subsection (c)(6)(G)(i)).

"(3) QUALIFIED STUDENT LOANS.—For purposes of this subsection, the term 'qualified student loan bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans with respect to which a special allowance payment is authorized to be made under section 438 of the Higher Education Act of 1965 (as in effect on March 15, 1984) to the issuer or to the holder of the student loan notes for the benefit of the issuer.".

(b) ELIMINATION OF SPECIAL ALLOWANCE PAYMENT REQUIREMENT IN 1986.—Paragraph (4) of section 103(o) (relating to qualified student loans) is amended to read as follows:

"(4) QUALIFIED STUDENT LOANS.—For purposes of this subsection, the term 'qualified student loan bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection the amendment made by subsection (a) shall apply to obligations issued after the date of enactment of this Act.

(2) ELIMINATION OF SPECIAL ALLOWANCE PAYMENT REQUIREMENT.—Except as otherwise provided in this subsection the amendment made by subsection (b) shall apply to obligations issued after September 30, 1986.

(3) EXCEPTIONS FOR CERTAIN STUDENT LOAN PROGRAMS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to obligations issued by a program described in the following table to the extent the aggregate face amount of such obligations does not exceed the amount of allowable obligations specified in the following table with respect to such program:

Program	Amount of allowable obligations
Colorado Student Obligation Bond Authority	$60 million
Connecticut Higher Education Supplementary Loan Authority.	$15.5 million
District of Columbia	$50 million
Illinois Higher Education Authority	$11 million
State of Iowa	$16 million
Louisiana Public Facilities Authority	$75 million
Maine Health and Higher Education Facilities Authority	$5 million
Maryland Higher Education Supplemental Loan Program.	$24 million
Massachusetts College Student Loan Authority	$90 million
Minnesota Higher Education Coordinating Board	$60 million
New Hampshire Higher Education and Health Facilities Authority.	$39 million
New York Dormitory Authority	$120 million
Pennsylvania Higher Education Assistance Agency	$300 million
Georgia Private Colleges and University Authority	$31 million
Wisconsin State Building Commission	$60 million
South Dakota Health and Educational Facilities Authorities.	$6 million

(B) PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY.—Subparagraph (A) shall apply to obligations issued by the Pennsylvania Higher Education Assistance Agency only if such obligations are issued solely for the purpose of refunding student loan bonds outstanding on March 15, 1984.

(4) CERTAIN TAX-EXEMPT MORTGAGE SUBSIDY BONDS.—For purposes of applying section 103(o) of the Internal Revenue Code of 1954, the term "consumer loan bond" shall not include any mortgage subsidy bond (within the meaning of section 103A(b) of such Code) to which the amendments made by section 1102 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply.

SEC. 719. STUDENT LOAN BOND ARBITRAGE.

(a) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations which specify the circumstances under which a student loan bond shall be treated as an arbitrage bond for purposes of section 103 of the Internal Revenue Code of 1954. Such regulations may provide that—

(A) paragraphs (4) and (5) of section 103(c) of such Code shall not apply, and

(B) rules similar to section 103(c)(6) shall apply,

to student loan bonds.

(2) DEFINITIONS.—For purposes of this subsection—

(A) STUDENT LOAN BONDS.—The term "student loan bond" means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to make or finance loans to individuals for educational expenses.

(B) ARBITRAGE BOND.—The term "arbitrage bond" has the meaning given to such term by section 103(c)(2).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, any regulations prescribed by the Secretary under paragraph (1) shall apply to obligations issued after the qualified date.

(B) QUALIFIED DATE.—

(i) IN GENERAL.—For purposes of this paragraph, the term "qualified date" means the earlier of—

(I) the date on which the Higher Education Act of 1965 expires, or

(II) the date, after the date of enactment of this Act, on which the Higher Education Act of 1965 is reauthorized.

(ii) PUBLICATION OF REGULATIONS.—Notwithstanding clause (i), the qualified date shall not be a date which is prior to the date that is 6 months after the date on which the regulations prescribed under paragraph (1) are published in the Federal Register.

(C) REFUNDING OBLIGATIONS.—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligation issued exclusively to refund any student loan bond which was issued before the qualified date.

(D) FULFILLMENT OF COMMITMENTS.—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligations which are needed to fulfill written commitments to acquire or finance student loans which are originated after June 30, 1984, and before the qualified date, but only if—

(i) such commitments are binding on the qualified date, and

(ii) the amount of such commitments is consistent with practices of the issuer which were in effect on March 15, 1984, with respect to establishing secondary markets for student loans.

(b) GROSS PROCEEDS OF STUDENT LOAN BONDS REQUIRED TO BE USED TO MAKE OR FINANCE STUDENT LOANS.—

(1) IN GENERAL.—Subsection (c) of section 103 (relating to arbitrage), as amended by this Act, is further amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) STUDENT LOAN BONDS.—

"(A) DENIAL OF TAX EXEMPTION.—Any student loan bond which does not meet the requirements of subparagraph (B) shall be treated as an obligation which is not described in subsection (a).

"(B) REQUIREMENTS.—A student loan bond meets the requirements of this subparagraph if the indenture for the issue of which such bond is a part provides that the issuer agrees—

"(i) to devote the gross proceeds of such issue and any prior issue of student loan bonds (after payment of expenses, debt service, and the creation of reserves for the same) to the making or financing of student loans or to pay such gross proceeds to the United States, and

"(ii) to pay to the United States (within the 10 days after notice and demand for payment by the Secretary) an amount equal to the amount of prohibited payments made by the issuer with respect to such issue.

"(C) STUDENT LOAN BONDS.—For purposes of this paragraph, the term 'student loan bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to make or finance loans to individuals for educational expenses.

"(D) PROHIBITED PAYMENT.—For purposes of this paragraph, the term 'prohibited payment' means—

"(i) any payment to a State or political subdivision thereof for general governmental purposes that are not directly related to the student loan program of the issuer, and

"(ii) any payment other than a payment of expenses incurred by the issuer which—

"(I) relate to the origination, acquisition, financing, or servicing of student loans, and

"(II) are not lavish or extravagant under the circumstances.

"(E) GROSS PROCEEDS.—The term 'gross proceeds' has the meaning given to such term by paragraph (6)(H)(ii).

"(F) NO APPLICATION TO CERTAIN PROHIBITED PAYMENTS.—Subparagraph (B)(ii) shall not apply with respect to any prohibited payment which the issuer is required to make—

"(i) under any State law in effect on March 15, 1984, or

"(ii) under any written contract which was binding on March 15, 1984.

(2) QUALIFIED SCHOLARSHIP FUNDING BONDS.—Paragraph (2) of section 103(e) (relating to qualified scholarship funding bonds) is amended by striking out "State or a political subdivision thereof" and inserting in lieu thereof "United States".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to obligations issued after the date of enactment of this Act.

(B) QUALIFIED SCHOLARSHIP FUNDING BONDS.—The amendment made by paragraph (2) shall apply to obligations issued after December 31, 1984.

(c) ISSUANCE OF STUDENT LOAN BONDS WHICH ARE NOT TAX-EXEMPT.—Any issuer who may issue obligations described in section 103(a) of the Internal Revenue Code of 1954 may elect to issue student loan bonds which are not described in such section 103(a) of such Code without prejudice to—

(1) the status of any other obligations issued, or to be issued, by such issuer as obligations described in section 103(a) of such Code, or

(2) the status of the issuer as an organization exempt from taxation under such Code.

(d) FEDERAL EXECUTIVE BRANCH JURISDICTION OVER TAX-EXEMPT STATUS.—For purposes of Federal law, any determination by the executive branch of the Federal Government of whether interest on any obligation is exempt from taxation under the Internal Revenue Code of 1954 shall be exclusively within the jurisdiction of the Department of the Treasury.

(e) STUDY ON TAX EXEMPT STUDENT LOAN BONDS.—

(1) IN GENERAL.—The Comptroller General of the United States, in conjunction with the Director of the Congressional Budget Office, shall conduct a study of—

(A) the appropriate role of tax-exempt bonds which are issued in connection with the guaranteed student loan program and the PLUS program established under the Higher Education Act of 1965, and

(B) the appropriate tax treatment of arbitrage on the proceeds of such bonds.

(2) REPORT.—The Comptroller General of the United States, in conjunction with the Director of the Congressional Budget Office shall submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives a report on the study conducted under paragraph (1) by no later than 9 months after the date of enactment of this Act.

SEC. 720. CERTAIN PUBLIC UTILITIES TREATED AS EXEMPTED PERSONS UNDER SECTION 103(b).

For purposes of applying section 103(b)(3) of the Internal Revenue Code with respect to—

(1) any obligations issued after the date of enactment of this Act, and

(2) any obligations issued after December 31, 1969, which were treated as obligations described in section 103(a) of such Code on the day on which such obligations were issued,

the term "exempt person" shall include a regulated public utility having any customer service area within a State served by a public power authority which was required as a condition of a Federal Power Commission license specified by an Act of Congress enacted prior to the enactment of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364) to contract to sell power to one such utility and which is authorized by State law to sell power to other such utilities, but only with respect to the purchase by any such utility and resale to its customers of any output of any electrical generation facility or any portion thereof or any use of any electrical transmission facility or any portion thereof financed by such power authority and owned by it or by such State, and provided that by agreement between such power authority and any such utility there shall be no markup in the resale price charged by such utility of that component of the resale price which represents the price paid by such utility for such output or use.

SEC. 721. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(b) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle (other than by section 713 or 715 shall not apply to obligations with respect to facilities—

(1) the original use of which commences with the taxpayer and the construction of which began before October 19, 1983, or

(2) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(c) PROVISIONS RELATING TO FEDERAL GUARANTEES.—

(1) IN GENERAL.—Except as provided in paragraph (2), amendments made by section 713 shall apply to—

(A) any obligation described in section 103(h)(1)(A)(ii) of such Code which is issued after April 15, 1983, and

(B) any obligation described in section 103(h)(1)(A)(i) or 103(h)(1)(B) which is issued after the date of enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by section 713 shall not apply to any obligation described in section 103(h)(1)(A)(ii) which is issued pursuant to a written contract that was binding on the

issuer on March 4, 1983, and at all times thereafter.

(d) RESTRICTIONS ON COST RECOVERY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (e), the amendments made by section 715 shall apply to property placed in service after June 30, 1984, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after March 15, 1984.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 715 shall not apply with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction of which began before March 15, 1984, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before March 15, 1984.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after June 30, 1984, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before March 15, 1984, the amendments made by section 715 shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(e) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—

(1) PROJECTS EXEMPTED FROM GOVERNMENT LEASING.—

(A) IN GENERAL.—The amendments made by this subtitle (other than by section 713 shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is placed in service in connection with projects described in section 22(g)(8)(A) of this Act.

(B) LIMITATION.—Subparagraph (A) shall apply to property included in a project described in section 22(g)(8)(A) of this Act only to the extent—

(i) such property was substantially included in such project at the time of the qualifying action, and

(ii) the issuer had evidenced an intent as of December 31, 1983, to issue obligations exempt from taxation under the Internal Revenue Code of 1954 in connection with such project.

(2) OTHER PROJECTS.—

(A) IN GENERAL.—The amendments made by this subtitle (other than section 713) shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is placed in service in connection with any of the following projects:

Project	Location	Qualifying action	Date of qualifying action	Amount of allowable obligations
Charleston Convention Center	Charleston, South Carolina	Preliminary UDAG approval	April 4, 1983	$50 million
Kalispell Center	Kalispell, Montana	UDAG application submitted	August 30, 1983	$10 million
Florida Crushed Stone Project	Hernando County, Florida	Inducement Resolution passed	August 24, 1982	$100 million
Willamette Plywood Plant	Natchitoches, Louisiana	UDAG application approved	February 3, 1984	$10 million
Godchaux/Maison Blanche Downtown Store and Distribution Center.	Baton Rouge, Louisiana	City Council approved	December 14, 1983	$9 million
Atchinson North-West Pipe and Casing Company Project.	Atchison, Kansas	Resolution adopted	July 5, 1983	$7.5 million
Downtown Redevelopment Project	Manhattan, Kansas	Preliminary UDAG approval	November 3, 1983	$26 million
China Trade Center	Boston, Massachusetts	UDAG application approved	July 2, 1981	$4.8 million
World Forum Project	Philadelphia, Pennsylvania	UDAG application approved	July 6, 1981	$5 million
Downtown UDAG	Muscogee, Oklahoma	UDAG application approved	May 5, 1981	$22.2 million
Park Central New Town In Town Project-365 Ltd. Project, Park Central West, Ltd. Project, Park Central Storage Limited Project, Energy City, Ltd. Project.	Port Authur, Texas	Bond purchase agreements executed	March 4, 1983	$24 million
Park Central New Town In Town Project	Port Authur, Texas	City ordinance adopted	August 18, 1980, April 26, 1982	$80 million for period 1984–1992

(B) LIMITATIONS.—

(i) PROPERTY.—Subparagraph (A) shall apply to property included in a project described in the table contained in subparagraph (A) only to the extent such property was substantially included in such project at the time of the qualifying action.

(ii) OBLIGATIONS.—Subparagraph (A) shall apply to an obligation issued to finance property in connection with a project described in subparagraph (A) only if the sum of—

(I) the face amount of such obligation, plus

(II) the aggregate face amount of all obligations previously issued to finance such property,

does not exceed the amount of allowable obligations that is specified in the table in subparagraph (A) with respect to such project.

(f) GAMBLING FACILITIES.—The amendment made by section 712 shall not apply to any obligations issued as part of an issue the proceeds of which are expected to be used to finance a facility which is primarily for horse racing if an inducement resolution (or other comparable preliminary approval) was adopted by the issuing authority on November 15, 1983.

(g) DETERMINATION OF SIGNIFICANT EXPENDITURE.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(1) $15,000,000, or

(2) 20 percent of the estimated cost of the facilities.

(h) NO APPLICATION TO CERTAIN SECTIONS.—This section shall not apply to the amendments made by sections 717, 718, 719, and 720.

TITLE VIII—MISCELLANEOUS REVENUE PROVISIONS

Subtitle A—Estate and Gift Tax Provisions

SEC. 801. INSTALLMENT PAYMENT OF ESTATE TAXES FOR CERTAIN INDIRECTLY HELD STOCK OF A CLOSELY HELD OPERATING COMPANY.

(a) IN GENERAL.—Subsection (b) of section 6166 (providing definitions and special rules for extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by adding after paragraph (7) the following new paragraph:

"(8) INDIRECTLY OWNED INTEREST IN CLOSELY HELD BUSINESS.—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph and if one corporation holds non-readily-tradable stock (as defined in paragraph (7)(B)) in a second corporation carrying on a trade or business, then—

"(i) for purposes of this section (other than paragraph (1)(C)(i)), a proportionate part of the stock of the first corporation shall be treated as stock of the second corporation,

"(ii) paragraph (1)(C)(i) shall apply to voting stock directly or indirectly included in determining the gross estate of the decedent,

"(iii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

"(iv) section 6601(j) (relating to 4-percent rate of interest) shall not apply.

"(B) EXTENT OF ELECTION.—

"(i) IN GENERAL.—Subparagraph (A) shall be applied only to the stock of such corporations as the executor elects, and shall be successively applied to such corporations in a chain, beginning with the corporation included in the election which is at the bottom of such chain.

"(ii) 20-PERCENT VALUE REQUIREMENT.—For purposes of clause (i), the election shall be limited to any corporation in which the interest included in the gross estate equals or exceeds 20 percent of the value of such corporation.

"(C) DETERMINATION OF PROPORTIONATE PART.—The proportionate part referred to in subparagraph (A)(i) shall be determined according to the ratio which the value of the stock of the second corporation which is held by the first corporation bears to the value of all assets of the first corporation.

"(D) 20-PERCENT REQUIREMENT.—For purposes of subparagraph (A)(ii), stock shall be treated as indirectly included in determining the gross estate only by attribution through voting stock.

"(E) VALUATION.—The treatment of stock as stock of a second corporation by reason of subparagraph (A)(i) shall not affect the value of such stock.".

(b) NONBUSINESS ASSETS EXCLUDED.—Paragraph (2) of section 6166(b) (relating to interest in closely held business) is amended by adding at the end thereof the following new subparagraph:

"(E) NONBUSINESS ASSETS EXCLUDED.—

"(i) IN GENERAL.—An interest in a closely held business shall not include the portion of an interest in a partnership or stock in a corporation carrying on a trade or business that is attributable to property held (directly or indirectly) by or for such partnership or corporation unless such property is directly related to the reasonable needs of such trade or business, or property which has been contributed to such partnership or corporation and which is not used directly in the conduct of such trade or business.

"(ii) SUCCESSIVE EXCLUSIONS.—Where a partnership or a corporation carrying on a trade or business holds an interest in another entity, the portion of such interest which is attributable to property which would be described in clause (i) if this subparagraph were applied to such entity shall be treated as property described in clause (i).".

(c) ACCELERATION OF PAYMENT.—Paragraph (1) of section 6166(g) (relating to disposition of interest; withdrawal of funds from business) is amended by adding at the end thereof the following new subparagraphs:

"(E) If any portion of stock in a corporation (described as the first corporation in subparagraph (A) of subsection (b)(8)) is treated as stock in one or more corporations by reason of such subparagraph, then—

"(i) any disposition of any interest in such stock in such first corporation, which was included in determining the gross estate of the decedent, or

"(ii) any withdrawal of any money or other property from such first corporation attributable to any interest included in determining the gross estate of the decedent, shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) such stock qualifying under subsection (a)(1).

"(F) If any portion of stock in a corporation (described as the first corporation in subparagraph (A) of subsection (b)(8)) is treated as stock in one or more corporations by reason of such subparagraph, then—

"(i) any disposition of any interest in such stock of such other corporation or corporations directly or indirectly owned by such first corporation, or

"(ii) any withdrawal of any money or other property from such other corporation or corporations attributable to such stock directly or indirectly owned by such first corporation,

shall, to the extent attributable to any interest included in determining the gross estate of the decedent, be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) such stock qualifying under subsection (a)(1).".

(d) PAYMENT OF DIVIDENDS.—Paragraph (2) of section 6166(g) (relating to undistributed income of estate) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, dividends paid with respect to non-readily-tradable stock in a corporation carrying on a trade or business (as described in subsection (b)(8)(A)) shall be treated as paid to the estate of the decedent to the extent attributable to stock treated as stock of such corporation by subsection (b)(8)(A)(i).".

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

SEC. 802. REPEAL OF GENERATION-SKIPPING TRANSFER TAX.

(a) IN GENERAL.—Subtitle B is amended by striking out chapter 13 (relating to tax on certain generation-skipping transfers).

(b) CONFORMING AMENDMENTS.—

(1) Section 303 (relating to distributions in redemption of stock to pay death taxes) is amended by striking out subsection (d).

(2) Paragraph (6) of section 667(b) (relating to treatment of amounts deemed distributed by trust in preceding years) is amended—

(A) by striking out "or 13, as the case may be" each place it appears in subparagraph (A),

(B) by striking out "or the date of the generation-skipping transfer" in subparagraph (C), and

(C) by striking out "AND GENERATION-SKIPPING TRANSFER" in the heading of such paragraph.

(3) Subsection (c) of section 691 (relating to deduction for estate tax) is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(4) Section 2013 (relating to credit for tax on prior transfers) is amended by striking out subsection (g).

(5) The first sentence of subsection (a) of section 7517 (relating to furnishing on request of statement explaining estate or gift valuation) is amended to read as follows: "If the Secretary makes a determination or a proposed determination of the value of an item of property for purposes of the tax imposed under chapter 11 or 12, he shall furnish, on the written request of the executor or donor (as the case may be), to such executor or donor a written statement containing the material required by subsection (b).".

(6) The analysis of chapters for subtitle B is amended by striking out the item relating to chapter 13.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to generation-skipping transfers occurring after June 11, 1976.

SEC. 803. TREATMENT OF CERTAIN DISCLAIMERS.

(a) IN GENERAL.—Subsection (c) of section 2518 (relating to disclaimers) is amended by adding at the end thereof the following new paragraph:

"(4) PRIOR TRANSFERS.—Any disclaimer of an interest created by a transfer of property which was made before November 15, 1958, shall be treated as a qualified disclaimer for purposes of this section if—

"(A) such disclaimer satisfies the requirements of subsection (b) without regard to paragraph (2) of such subsection, and

"(B) such disclaimer was received by the transferor of the interest, his legal representative, or the holder of the legal title to the property to which the interest relates at any time prior to the date which is 90 days after the date of the enactment of the Deficit Reduction Tax Act of 1984, and

"(C) such person disclaiming has not accepted the interest or any of its benefits.".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 2009(e) of the Tax Reform Act of 1976 (26 U.S.C. 2518 note) is amended by striking out "after December 31, 1976" and inserting in lieu thereof "before November 15, 1958, or after December 31, 1976".

SEC. 804. MARITAL DEDUCTION FOR A USUFRUCT.

(a) IN GENERAL.—Subclause (I) of section 2056(b)(7)(B)(ii) (relating to qualifying income interest for life) is amended by inserting ", or has a usufruct interest for life in the property" after "intervals".

(b) LIMITATION ON DEDUCTIONS FROM GROSS ESTATE.—Paragraph (1) of section 2053(c) (relating to limitations on deductions for expenses, indebtedness, and taxes) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN CLAIMS BY REMAINDERMEN.—No deduction shall be allowed under this section for a claim against the estate by a remainderman relating to any property described in section 2044.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 403 of the Economic Recovery Tax Act of 1981.

SEC. 805. CREDIT AGAINST ESTATE TAX FOR TRANSFERS TO TOIYABE NATIONAL FOREST.

(a) CREDIT ALLOWED.—Subject to the provisions of this section, and notwithstanding any period of limitation or lapse of time, the Secretary of the Treasury or his delegate shall allow credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to the imposition of estate tax)—

(1) upon the estate of Nell J. Redfield for the conveyance by the estate to the United States of real property included in the gross estate and located within the boundaries of the Toiyabe National Forest; and

(2) upon the estate of Elizabeth Schultz Rabe for the conveyance by the estate to the United States of real property included in the gross estate and known as Parcel No. 4 containing 97.60 acres, more or less, located in the County of Douglas, State of Nevada, and described as follows:

The NE 1/4 of the SW 1/4, the NW 1/4 of the SE 1/4, and a portion of the SE 1/4 of the NW 1/4 of Section 23, Township 13 North, Range 18 East, M.D.B.&M., more particularly described as follows:

All that portion of the SE 1/4 of the NW 1/4 excepting therefrom the following:

Beginning at a United States Forest Service Brass Cap, being the C-N 1/16 corner of Section 23; thence South 0°45'24" West 500.00 feet to an iron pipe; thence South 44°50'02" West 945.42 feet to an iron pipe; thence North 89°46'12" West 301.78 feet to a point; thence tangent North 20°28'20" East on the arc of a circular curve to the left with a radius of 800 feet through a central angle of 40°44'50" an arc distance of 568.94 feet to a point; thence North 20°02'42" West 683.17 feet to a point; thence South 88°35'38" East 1206.29 feet to the Point of Beginning, containing 22.40 acres, more or less.

(b) AMOUNT OF CREDIT.—The amount allowed as a credit under subsection (a) shall be equal to the lesser of—

(1) fair market value of the real property transferred by each estate as of the valuation date used for purposes of the tax imposed by chapter 11 of such Code, or

(2) the Federal estate tax liability (and interest thereon) of each estate.

(c) LIMITATIONS.—

(1) The provisions of this section shall apply only if the executor of each estate executes a deed (in accordance with the laws of the State in which such real property is situated) transferring title to the United States before the date which is 90 days after the date of the enactment of this Act, but only if such title is satisfactory to the Attorney General or his delegate.

(2) The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

Subtitle B—Charitable Provisions

SEC. 806. TRANSITIONAL RULE RELATING TO THE DEFINITION OF QUALIFIED CONSERVATION CONTRIBUTIONS.

(a) IN GENERAL.—Subparagraph (B) of section 170(h)(5) (defining exclusively for conservation purposes) is amended to read as follows:

"(B) NO SURFACE MINING PERMITTED.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a

qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

SEC. 807. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND

"Sec. 6097. Amounts for United States Olympic Trust Fund.

"SEC. 6097. AMOUNTS FOR UNITED STATES OLYMPIC TRUST FUND.

"(a) IN GENERAL.—With respect to each individual's return for the taxable year of the tax imposed by chapter 1, such individual may designate that—

"(1) $1 of any overpayment of such tax for such taxable year, or

"(2) in the absence of any overpayment of such tax, a $1 contribution which the individual includes with such return,

be paid over to the United States Olympic Trust Fund.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year.

"(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No amount designated on any taxpayer's return pursuant to subsection (a) shall be allowed as a deduction under section 170 or any other section for any taxable year.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the individual as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.".

(b) ESTABLISHMENT OF UNITED STATES OLYMPIC TRUST FUND.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9504. UNITED STATES OLYMPIC TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'United States Olympic Trust Fund', consisting of such amounts as may be appropriated or credited to the United States Olympic Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO UNITED STATES OLYMPIC TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the United States Olympic Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, not less often than quarterly, to the United States Olympic Committee from the United States Olympic Trust Fund an amount equal to the amount in such Fund as of the time of such payment less any administrative expenses of the Secretary which may be paid under paragraph (2).

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the United States Olympic Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such Fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to and from such Fund.".

(c) CROSS REFERENCE.—Subsection (l) of section 170 (relating to disallowance of charitable deductions in certain cases) (as designated by section 154 of this Act) is further amended—

(1) by striking out "For disallowance" and inserting in lieu thereof "(1) For disallowance"; and

(2) by adding at the end thereof the following new paragraph:

"(2) For disallowance of deductions for contributions to Olympics, see section 6097(c).".

(d) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR UNITED STATES OLYMPIC TRUST FUND.".

(2) The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9504. United States Olympic Trust Fund.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns filed for taxable years beginning after December 31, 1983, and ending before January 1, 1989.

SEC. 808. INCREASE IN CHARITABLE VOLUNTEER MILEAGE.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) (as amended by section 154 of this Act) is further amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile the standard mileage rate shall be 12 cents per mile.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 809. PERMANENT RULES FOR REFORMING GOVERNING INSTRUMENTS CREATING CHARITABLE REMAINDER TRUSTS AND OTHER CHARITABLE INTERESTS.

(a) GENERAL RULE.—Paragraph (3) of section 2055(e) (relating to disallowance of deductions in certain cases) is amended to read as follows:

"(3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

"(B) QUALIFIED REFORMATION.—For purposes of this paragraph, the term 'qualified reformation' means a change of a governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if—

"(i) any difference between—

"(I) the actuarial value (determined as of the date of the decedent's death) of the qualified interest, and

"(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest,

"(ii) in the case of—

"(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

"(II) any other interest, the reformable interest and the qualified interest are for the same period, and

"(iii) such change is effective as of the date of the decedent's death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

"(C) REFORMABLE INTEREST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'reformable interest' means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent's death but for paragraph (2).

"(ii) BENEFICIARY'S INTEREST MUST BE FIXED.—The term 'reformable interest' does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) shall be taken into account.

"(iii) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after—

"(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

"(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

"(iv) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.—In the case of any interest passing under a will executed before January 1, 1979, or under a trust created before such date, clause (ii) shall not apply.

"(D) QUALIFIED INTEREST.—For purposes of this paragraph, the term 'qualified interest' means an interest for which a deduction is allowable under subsection (a).

"(E) LIMITATION.—The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have been allowable for the reformable interest but for paragraph (2).

"(F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.—If (by reason of the death of any individual, or by termination or distribution of a trust in accordance with the terms of the trust instrument) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for

such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent's death. For purposes of the preceding sentence, the term 'wholly charitable trust' means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1).

"(G) STATUTE OF LIMITATIONS.—The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation has occurred.

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 (relating to special rules relating to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations) as may be necessary by reason of the qualified reformation.

"(I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.—The Secretary shall prescribe regulations (consistent with the provisions of this paragraph) permitting reformations in the case of any failure—

"(i) to meet the requirements of section 170(f)(3)(B) (relating to remainder interests in personal residence or farm, etc.), or

"(ii) to meet the requirements of section 642(c)(5).".

(b) INCOME TAX DEDUCTION.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.".

(c) GIFT TAX DEDUCTION.—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

"(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply.".

(d) TREATMENT OF CERTAIN CONTINGENCIES UNDER SECTION 664.—Section 664 (relating to charitable remainder trusts) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN CONTINGENCIES PERMITTED.—

"(1) GENERAL RULE.—If a trust would, but for a qualified contingency, meet the requirements of paragraph (1)(A) or (2)(A) of subsection (d), such trust shall be treated as meeting such requirements.

"(2) VALUE DETERMINED WITHOUT REGARD TO QUALIFIED CONTINGENCY.—For purposes of determining the amount of any charitable contribution (or the actuarial value of any interest), a qualified contingency shall not be taken into account.

"(3) QUALIFIED CONTINGENCY.—For purposes of this subsection, the term 'qualified contingency' means any provision of a trust which provides that, upon the happening of a contingency, the payments described in paragraph (1)(A) or (2)(A) of subsection (d) (as the case may be) will terminate not later than such payments would otherwise terminate under the trust.".

(e) EFFECTIVE DATE.—

(1) SUBSECTIONS (a), (b), AND (c).—The amendments made by subsections (a), (b), and (c) shall apply to reformations after December 31, 1978; except that such amendments shall not apply to any reformation to which section 2055(e)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to transfers after December 31, 1978.

(3) STATUTE OF LIMITATIONS.—

(A) IN GENERAL.—If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment), credit or refund of any overpayment of tax attributable to the amendments made by this section is barred by any law or rule of law, such credit or refund of such overpayment may nevertheless be made if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(B) NO INTEREST WHERE STATUTE CLOSED ON DATE OF ENACTMENT.—In any case where the making of the credit or refund of the overpayment described in subparagraph (A) is barred on the date of the enactment of this Act, no interest shall be allowed with respect to such overpayment (or any related adjustment) for the period before the date 180 days after the date on which the Secretary of the Treasury (or his delegate) is notified that the reformation has occurred.

SEC. 810. CERTAIN CONTRIBUTIONS OF PROPERTY USED IN QUALIFIED VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF PROPERTY USED IN QUALIFIED VOCATIONAL EDUCATION PROGRAMS.—

"(A) LIMIT ON REDUCTION.—In the case of a qualified vocational education contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) QUALIFIED VOCATIONAL EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'qualified vocational education contribution' means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of section 1221, but only if—

"(i) such contribution is to a public community college or public technical institute (within the meaning of section 742(b) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1)), and is made through the governing body of the donee,

"(ii) the property is scientific or technical equipment or apparatus,

"(iii) substantially all of the use of such property by the donee is for training students enrolled in a postsecondary vocational education program offered by the donee,

"(iv) the property is not computer software, a microcomputer, or any other computer designed generally for use in the home or other personal use,

"(v) the fair market value of the property exceeds $250,

"(vi) the property is manufactured, produced, or assembled by the taxpayer, and the contribution is made not later than six months after the date on which the manufacture, production, or assembly of the property is substantially completed,

"(vii) the original use of the property is by the donee,

"(viii) the property is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the property contributed,

"(ix) such property is not transferred by the donee in exchange for money, other property, or services within 5 years of the date of original transfer to the donee,

"(x) such property is functional and usable in the condition in which it is transferred for the purposes described in clause (iii), without the necessity of any repair, reconditioning, or other similar investment by the donee, and

"(xi) the taxpayer receives from the governing body of the donee a written statement, executed under penalties of perjury, representing that the property and its use and disposition by the donee will be in accordance with the provisions of clauses (iii), (ix) and (x).

"(C) CORPORATION.—For purposes of this paragraph, the term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (within the meaning of section 542), or

"(iii) a service organization (within the meaning of section 414(m)(3)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1984.

SEC. 811. POSTSECONDARY VOCATIONAL EDUCATION INSTRUCTION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by inserting after section 44K the following new section:

"SEC. 44L. VOCATIONAL EDUCATION INSTRUCTION CREDIT.

"(a) IN GENERAL.—In the case of a corporation, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the product of—

"(A) $100, multiplied by

"(B) the number of postsecondary vocational education courses taught by qualified teaching employees of the taxpayer during the taxable year, plus

"(2) the product of—

"(A) $100, multiplied by

"(B) the number of qualified vocational education instructors who were employed by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a credit under subsection (a) to any taxpayer for any taxable year shall not exceed $20,000.

"(2) LIMITATION ON THE NUMBER OF COURSES TAUGHT PER EMPLOYEE.—No more than 5 postsecondary vocational education courses taught by the same qualified teaching employee may be taken into account under subsection (a)(1)(B).

"(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by subsection (a) for any taxable year shall not exceed the

amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable for the taxable year under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POSTSECONDARY VOCATIONAL EDUCATION COURSES.—The term 'postsecondary vocational education course' means any course of instruction which—

"(A) is offered by an institution of higher education as part of an organized education program,

"(B) is in the physical, biological, computer, or engineering technologies, or electronic and automated industrial, medical, and agricultural equipment and instrumentation operation,

"(C) consists of a period of instruction which is at least equivalent to a course of instruction that provides 3 hours of instruction per week during an academic semester, and

"(D) has been completed before the close of the taxable year.

"(2) QUALIFIED VOCATIONAL EDUCATION INSTRUCTOR.—The term 'qualified vocational education instructor' means an individual who—

"(A) was employed by the taxpayer on a full-time basis for at least 3 months but not more than 12 months during the 2-year period ending at the close of the taxable year,

"(B) prior to such employment, taught postsecondary vocational education courses on a full-time basis at an institution of higher education,

"(C) is teaching such courses on a full-time basis at an institution of higher education at the close of such taxable year, and

"(D) is not employed by the taxpayer at the close of the taxable year.

"(3) QUALIFIED TEACHING EMPLOYEE.—The term 'qualified teaching employee' means an individual who—

"(A) taught at least one postsecondary vocational education course on a part-time basis at an institution of higher education during the taxable year,

"(B) is a full-time employee of the taxpayer for the entire taxable year,

"(C) does not receive any compensation from such institution of higher education, and

"(D) was not a qualified vocational education instructor at any time during the taxable year.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965.

"(5) ALLOCATION IN CASE OF CONTROLLED GROUP OF CORPORATIONS.—

"(A) IN GENERAL.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member with respect to any qualified teaching employee or qualified vocational education instructor shall be in proportion to the member's share of the wages paid for the taxable year to such qualified teaching employee or qualified vocational education instructor.

"(B) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(i) 'more that 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(6) CORPORATION.—The term 'corporation' shall not include—

"(A) an S corporation,

"(B) a personal holding company (within the meaning of section 542), or

"(C) a service organization (within the meaning of section 414(m)(3)).

"(7) DOUBLE BENEFIT.—Any credit allowable under this section for the taxable year with respect to any employee of the taxpayer shall be in addition to any deduction under this chapter which is allowable to the taxpayer for such taxable year with respect to compensation paid to such employee.".

(b) CONFORMING AMENDMENTS.—

(1) 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 44K the following new item:

"Sec. 44L. Vocational education instruction credit.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44I" and inserting in lieu thereof "44I, and 44J".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 812. INCREASE IN CERTAIN DEDUCTION LIMITS FOR CHARITABLE CONTRIBUTION DEDUCTION.

(a) INCREASE IN PERCENTAGE OF CONTRIBUTION BASE LIMITATION FOR INDIVIDUALS.—Subsections (b)(1) and (d)(1) of section 170 (relating to charitable, etc., contributions and gifts) are amended by striking out "50 percent" each place it appears and inserting in lieu thereof "60 percent".

(b) CARRYOVER OF EXCESS CONTRIBUTIONS BY INDIVIDUALS EXTENDED TO 15 YEARS.—

(1) IN GENERAL.—Subparagraph (A) of section 170(d)(1) (relating to carryovers of excess contributions by individuals) is amended—

(A) by striking out "5 years" and inserting in lieu thereof "15 years", and

(B) by striking out "the second, third, fourth, or fifth succeeding taxable year" in clause (ii) and inserting in lieu thereof "each of the fourteen succeeding taxable years".

(2) CONFORMING AMENDMENT.—Clause (ii) of section 170(b)(1)(C) (relating to special limitation with respect to contributions of certain capital gain property) is amended by striking out "5" and inserting in lieu thereof "14".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to gifts made after December 31, 1984.

Subtitle C—Excise Tax Provisions

PART I—BOATING SAFETY AND SPORT FISH RESTORATION

SUBPART A—BOATING SAFETY AMENDMENTS

SEC. 813. POLICY.

It is declared to be the policy of Congress and the purpose of this part to improve recreational boating safety and to foster greater development, use, and enjoyment of all waters of the United States by encouraging and assisting participation by the States, the boating industry, and the boating public in activities related to increasing boating safety; by authorizing the establishment of national construction and performance standards for boats and associated equipment; by creating more flexible authority governing the use of boats and equipment; and by facilitating the provision of services by the United States Coast Guard on behalf of boating safety. It is further declared to be the policy of Congress to encourage greater and continuing uniformity of boating laws and regulations among the States and the Federal Government, to encourage and assist the States in exercising their authorities in boating safety, to foster greater cooperation and assistance between the Federal Government and the States in administering and enforcing Federal and State laws and regulations pertaining to boating safety, and to equitably utilize taxes paid on fuel use in motor boats in a manner which enhances boating safety.

SEC. 814. GENERAL AMENDMENTS TO TITLE 46.

(a) Section 2102 of title 46, United States Code is amended—

(1) by striking out "and facilities improvement" in paragraph (1);

(2) by striking out paragraphs (3) and (4); and

(3) by redesignating paragraph (5) as paragraph (3).

(b)(1) Section 13101 of such title is amended—

(A) by striking out "and facility improvement" in subsection (a); and

(B) by striking out "and facilities improvement" each place it appears.

(2) Subsection (a) of section 13101 of such title is amended by striking out "may" in the second sentence and inserting in lieu thereof "shall".

(c)(1) Section 13102 of such title is amended by striking out "and facilities improvement" each place it appears.

(2) Subsection (a) of section 13102 of such title is amended by striking out "may" and inserting in lieu thereof "shall".

(3) Paragraph (2) of section 13102(a) of such title is amended by striking out ", (d), or (f)".

(4) Subsections (d) and (f) of section 13102 of such title are repealed, and subsection (e) of such section (and any reference thereto) is redesignated as subsection (d).

(d)(1) Subsections (b) and (f) of section 13103 of such title are repealed, and subsections (c), (d), and (e) of such section (and all references thereto) are redesignated as subsections (b), (c), and (d), respectively.

(2) Subsections (b) and (c) of section 13103 of such title (as redesignated by paragraph (1) of this subsection) are amended by striking out "and facilities improvement" each place it appears.

(e) Section 13105 of such title is amended by striking out "and facilities improvement".

(f) Subsection (c) of section 13108 of such title is amended by striking out "and facilities improvement" each place it appears.

(g) Section 13109 of such title is amended by striking out "and facilities improvement" each place it appears.

SEC. 815. AUTHORIZATION OF FUNDS FOR BOATING SAFETY.

Section 13106 of title 46, United States Code, is amended to read as follows:

"(a) The Secretary may expend in each of the fiscal years 1985, 1986, 1987, and 1988, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to two-thirds of

the amount transferred for such fiscal year to the Boating Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)). The amount shall be allocated as provided under section 13103 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

"(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes may include—

"(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

"(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

"(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

"(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

"(5) conducting boating safety inspections and marine casualty investigations;

"(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

"(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

"(8) providing State recreational vessel numbering or titling programs.

"(c) An amount equal to one-third of the amount transferred for each fiscal year to the Boating Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503 (c)(4)) is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Amounts made available by this subsection shall remain available until expended.".

SEC. 816. EFFECTIVE DATE.

The amendments made by this subpart shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

SUBPART B—SPORT FISH RESTORATION PROGRAM

SEC. 817. AMENDMENTS TO THE SPORT FISH RESTORATION PROGRAM.

(a) The Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777 et seq.), is amended as follows:

(1) The first section is amended—

(A) by inserting "(a)" after "That"; and

(B) by adding at the end thereof the following new subsection:

"(b) Each coastal State, to the extent practicable, shall equitably allocate the following sums between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State:

"(1) The additional sums apportioned to such State under this Act as a result of the taxes imposed by the amendments made by the Sport Fish Restoration Revenue Act of 1983 on items not taxed under section 4161(a) of the Internal Revenue Code of 1954 before October 1, 1984.

"(2) The sums apportioned to such State under this Act that are not attributable to any tax imposed by section 4499(a) of such Code.

As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas.".

(2) The first sentence of section 3 is amended to read as follows: "To carry out the provisions of this Act for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9505(a) of the Internal Revenue Code of 1954 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section.".

(3) The first sentence of section 4 is amended to read as follows: "So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 3 of this Act as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.".

(4) Section 5 is amended by striking all after the first sentence.

(5) Section 6 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities for appropriations currently available for the purposes of this Act; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this Act.".

(6) Section 8 is amended by inserting "(a)" before the first sentence, and by adding at the end thereof the following new subsections:

"(b)(1) Each State shall allocate 10 per centum of the funds apportioned to it for each fiscal year under section 4 of this Act for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes.

"(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding fiscal year, but any portion of such funds that remain unexpended or unobligated at the close of such succeeding fiscal year are authorized to be made available for expenditure by the Secretary of the Interior in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.

"(c) Each State may use not to exceed 10 per centum of the funds apportioned to it under section 4 of this Act to pay up to 75 per centum of the costs of an aquatic resource education program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

SUBPART C—EXPANSION OF SPORT FISHING EXCISE TAX

SEC. 818. SHORT TITLE.

This subpart may be cited as the "Sport Fish Restoration Revenue Act of 1984".

SEC. 819. TAX ON SALE OF SPORT FISHING EQUIPMENT.

(a) GENERAL RULE.—Chapter 36 of subtitle D (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter G—Sport Fishing Equipment

"Sec. 4499. Tax on sport fishing equipment.

"SEC. 4499. TAX ON SPORT FISHING EQUIPMENT.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the tax trigger sale of any article of sport fishing equipment a tax equal to 10 percent of the price for which the article is sold.

"(2) AMOUNT OF TAX ON ELECTRIC OUTBOARD BOAT MOTORS, TACKLE BOXES, AND SONAR DEVICES SUITABLE FOR FINDING FISH.—

"(A) IN GENERAL.—In the case of any electric outboard boat motor, tackle box, or sonar device suitable for finding fish, paragraph (1) shall be applied by substituting '3 percent' for '10 percent'.

"(B) $30 LIMITATION OF TAX ON SONAR DEVICES SUITABLE FOR FINDING FISH.—The tax imposed by paragraph (1) on any sonar device suitable for finding fish shall not exceed $30.

"(3) PARTS OR ACCESSORIES SOLD IN CONNECTION WITH TAX TRIGGER SALE.—In the case of

any tax trigger sale of any article of sport fishing equipment, such article shall be treated as including any parts or accessories of such article sold on or in connection therewith or with the sale thereof.

"(b) LIABILITY FOR TAX.—In the case of a tax trigger sale, the tax imposed by subsection (a) on any sport fishing equipment shall be paid by the person selling such article.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

"(1) SPORT FISHING EQUIPMENT.—The term 'sport fishing equipment' means—

"(A) fishing rods and poles (and component parts therefor),

"(B) fishing reels,

"(C) fly fishing lines, and other fishing lines not over 130 pounds test,

"(D) fishing spears, spear guns, and spear tips,

"(E) items of terminal tackle, including—

"(i) leaders,

"(ii) artificial lures,

"(iii) artificial baits,

"(iv) artificial flies,

"(v) fishing hooks smaller than size 6/0,

"(vi) bobbers,

"(vii) sinkers,

"(viii) snaps,

"(ix) drayles, and

"(x) swivels,

but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in subparagraph (C), and

"(F) the following items of fishing supplies and accessories—

"(i) fish stringers,

"(ii) creels,

"(iii) tackle boxes,

"(iv) bags, baskets, and other containers designed to hold fish,

"(v) portable bait containers,

"(vi) fishing vests,

"(vii) landing nets,

"(viii) gaff hooks,

"(ix) fishing hook disgorgers, and

"(x) dressing for fishing lines and artificial flies,

"(G) fishing tip-ups and tilts,

"(H) fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers,

"(I) electric outboard boat motors, and

"(J) sonar devices suitable for finding fish.

"(2) TAX TRIGGER SALE.—

"(A) IN GENERAL.—The term 'tax trigger sale' means the last sale before any retail sale.

"(B) SALE OUTSIDE UNITED STATES.—If the last sale before any retail sale occurs outside the United States, the amount of tax imposed by subsection (a) shall be paid by the importer at the time of importation.

"(3) RETAIL SALE.—

"(A) IN GENERAL.—The term 'retail sale' means any sale to any person for purposes other than resale.

"(B) LEASE OR USE TREATED AS SALE.—The leasing of or use by any person of any sport fishing equipment before any retail sale of such equipment shall be treated as a retail sale of such equipment by such person.

"(4) PRICE.—

"(A) IN GENERAL.—The term 'price' shall include—

"(i) any charge for coverings and containers of whatever nature, and

"(ii) any charge incident to placing the sport fishing equipment in condition ready for any tax trigger sale,

but shall not include the amount of tax imposed by subsection (a), whether or not stated as a separate charge.

"(B) TRANSPORTATION, ETC. CHARGES.—The term 'price' shall not include any transportation, delivery, insurance, installation, or other charge which is not required to be included under subparagraph (A) but only to the extent of the amount thereof established to the satisfaction of the Secretary in accordance with the regulations prescribed under section 4216(a).

"(5) SONAR DEVICE SUITABLE FOR FINDING FISH.—The term 'sonar device suitable for finding fish' shall not include any sonar device which is—

"(A) a graph recorder,

"(B) a digital type,

"(C) a meter readout, or

"(D) any combination graph recorder or meter readout.

"(6) TACKLE BOXES AND SONAR DEVICES SUITABLE FOR FINDING FISH.—Under regulations prescribed by the Secretary, articles similar to tackle boxes and sonar devices suitable for finding fish which are not primarily designed or intended to be used for sport fishing shall be delineated to ensure, to the maximum extent practicable, that the tax imposed by subsection (a) shall not apply to such articles.

"(7) CERTAIN EXEMPTIONS MADE APPLICABLE.—Exemptions shall apply to the tax imposed by subsection (a) under rules similar to the rules of sections 4221(a) and 4225.

"(8) SALES BETWEEN RELATED PARTIES.—In the case of any tax trigger sale of sport fishing equipment between related parties, rules similar to the rules of section 4216 shall apply.

"(9) CROSS REFERENCE.—For penalties and administrative provisions applicable to this subchapter, see subtitle F.".

(b) TIME FOR PAYMENT OF TAX.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TIME FOR PAYMENT OF EXCISE TAX ON SPORT FISHING EQUIPMENT FOR SMALL MANUFACTURERS.—

"(1) IN GENERAL.—If any small manufacturer is liable for the tax imposed by section 4499(a) (relating to excise tax on sport fishing equipment), the deposit requirements otherwise applicable under this section shall not be required and such tax may be due and payable on the date for filing a return for such tax under section 6071.

"(2) SMALL MANUFACTURER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'small manufacturer', means any manufacturer whose gross receipts for the preceding calendar year do not exceed $100,000.

"(B) DETERMINATION OF SMALL MANUFACTURER'S GROSS RECEIPTS.—For purposes of subparagraph (A), the gross receipts of—

"(i) all trades or businesses (whether or not incorporated) which are under common control with the small manufacturer (within the meaning of section 52(b)), and

"(ii) all members of any controlled group of corporations of which the small manufacturer is a member,

for the preceding calendar year described in subparagraph (A) shall be included in the gross receipts of the small manufacturer. Under regulations prescribed by the Secretary attribution rules shall take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in manufacturing through partnerships, joint ventures, and corporations.

"(C) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.".

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 is amended by adding at the end thereof the following new item:

"Subchapter G. Sport Fishing Equipment.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 1984.

(2) APPLICATION OF TAX.—The amendments made by subsection (a) shall not apply with respect to any article with respect to which any tax was imposed under section 4161 before October 1, 1984.

(3) TACKLE BOXES AND SONAR DEVICES SUITABLE FOR FINDING FISH.—The amendments made by subsection (a) with respect to tackle boxes and sonar devices suitable for finding fish shall take effect on October 1, 1985.

SEC. 820. ESTABLISHMENT OF AQUATIC RESOURCES TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. AQUATIC RESOURCES TRUST FUND.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Aquatic Resources Trust Fund'.

"(2) ACCOUNTS IN TRUST FUND.—The Aquatic Resources Trust Fund shall consist of—

"(A) a Sport Fish Restoration Account, and

"(B) a Boating Safety Account.

Each such Account shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), or section 9602(b).

"(b) SPORT FISH RESTORATION ACCOUNT.—

"(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Sport Fish Restoration Account amounts equivalent to the following amounts received in the Treasury on or after October 1, 1984—

"(A) the taxes imposed by section 4499(a) (relating to sport fishing equipment), and

"(B) the import duties imposed on fishing tackle under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) and on yachts and pleasure craft under subpart D of part 6 of schedule 6 of such Schedules.

"(2) EXPENDITURES FROM ACCOUNT.—Amounts in the Sport Fish Restoration Account shall be available, as provided by appropriation Acts, to carry out the purposes of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950 (16 U.S.C. 777 et seq.).

"(c) EXPENDITURES FROM BOATING SAFETY ACCOUNT.—Amounts in the Boating Safety Account shall be available, as provided by

appropriation Acts, for making expenditures before April 1, 1989, to carry out the purposes of section 13106 of title 46, United States Code.

"(d) CROSS REFERENCE.—

"For provision transferring motorboat fuels taxes to Boating Safety Account and Sport Fish Restoration Account, see section 9503(c)(4).".

(b) TRANSFERS FROM HIGHWAY TRUST FUND.—

(1) Subparagraph (A) of section 9503(c)(4) is amended—

(A) by striking out "the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of title 46, United States Code, in clause (i) and inserting in lieu thereof "the Boating Safety Account in the Aquatic Resources Trust Fund",

(B) by striking out "the amount in the National Recreational Boating Safety and Facilities Improvement Fund" in clause (ii) and inserting in lieu thereof "the amount in the Boating Safety Account", and

(C) by striking out "NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND" in the subparagraph heading and inserting in lieu thereof "BOATING SAFETY ACCOUNT".

(2) Paragraph (4) of section 9503 (c) is amended by redesignating subparagraph (C) as subparagraph (D) and by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) $1,000,000 per year of excess transferred to land and water conservation funds.—

"(i) IN GENERAL.—Any amount received in the Highway Trust Fund—

"(I) which is attributable to motorboat fuel taxes, and

"(II) which is not transferred from the Highway Trust Fund under subparagraph (A),

shall be transferred (subject to the limitation of clause (ii)) by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000.

"(C) EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraph (A) or (B),

shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund.".

(c) CONFORMING AMENDMENT.—Section 13107 of title 46, United States Code, is hereby repealed.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9505. Aquatic Resources Trust Fund."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1984.

(2) BOATING SAFETY ACCOUNT TREATED AS CONTINUATION OF NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—The Boating Safety Account in the Aquatic Resources Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of title 46, United States Code. Any reference in any law to the National Recreational Boating Safety and Facilities Improvement Fund established by such section shall be deemed to include (wherever appropriate) a reference to such Boating Safety Account.

SEC. 821. TAX ON CERTAIN BOWS AND ARROWS.

(a) GENERAL RULE—Part 1 of subchapter D of chapter 32 (relating to imposition of excise tax on sporting goods) is amended to read as follows:

"PART I—BOWS AND ARROWS

"Sec. 4161. Imposition of tax.

"SEC. 4161. IMPOSITION OF TAX.

"(a) BOWS AND ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(1) of any bow which has a draw weight of 10 pounds or more, and

"(2) of any arrow which—

"(A) measures 18 inches overall or more in length, or

"(B) measures less than 18 inches overall in length but is suitable for use with a bow described in paragraph (1),

a tax equal to 11 percent of the price for which so sold.

"(b) PARTS AND ACCESSORIES.—There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(1) of any part or accessory suitable for inclusion in or attachment to a bow or arrow described in subsection (a), and

"(2) of any quiver suitable for use with arrows described in subsection (a), a tax equivalent to 11 percent of the price for which so sold.

"(c) COORDINATION WITH SECTION 4499.—No tax shall be imposed under this section with respect to any article on which a tax is imposed under section 4499.".

(b) CLERICAL AMENDMENT.—The table of parts of subchapter D of chapter 32 is amended by striking out the item relating to sporting goods and inserting in lieu thereof the following new item:

"PART I. BOWS AND ARROWS.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.

PART II—OTHER EXCISE TAXES

SEC. 822. INCREASE IN TAX ON DISTILLED SPIRITS.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking out "$10.50" and inserting in lieu thereof "$12.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking out "$10.50" and inserting in lieu thereof "12.50".

(b) FLOOR STOCKS TAXES ON DISTILLED SPIRITS.—

(1) IMPOSITION OF TAX.—On distilled spirits produced in or imported into the United States which are removed before January 1, 1985, and held on such date for sale by any person, there shall be imposed a tax at the rate of $2.00 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon. Such tax imposed by this paragraph shall be treated as a tax imposed by section 5001.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding distilled spirits on January 1, 1985, 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)—

(i) shall be paid in such manner as the Secretary shall by regulations prescribe, and

(ii) shall be paid at such date (not later than 6 months after the date of the enactment of this Act) as the Secretary shall by regulations prescribe.

(3) EXCEPTION FOR ON-PREMISES RETAIL ESTABLISHMENTS.—To the extent provided in regulations prescribed by the Secretary, the tax imposed by paragraph (1) shall not apply to distilled spirits held on January 1, 1985, on the premises of a retail establishment where alcoholic beverages are sold for consumption on the premises only.

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

(A) DISTILLED SPIRITS.—The term "distilled spirits" has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1954.

(B) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis.

(C) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(D) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1985.

SEC. 823. EXEMPTION FROM AVIATION EXCISE TAX FOR CERTAIN HELICOPTER OPERATIONS.

(a) EXEMPTION FROM FUEL TAX.—Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in—

"(A) the exploration for, or the development or removal of, hard minerals, or

"(B) the exploration for oil or gas, or".

(b) EXEMPTION FROM TAX ON TRANSPORTATION BY AIR.—Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in—

"(A) the exploration for, or the development or removal of, hard minerals, or

"(B) the exploration for oil or gas, or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of fuel occurring and transportation provided after March 31, 1984.

SEC. 824. TECHNICAL AMENDMENTS TO THE HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980.

(a) CLARIFICATION OF EXCEPTED SUBSTANCES.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to tax on certain chemicals) is amended by adding at the end thereof the following new paragraphs:

"(5) SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—

"(A) IN GENERAL.—The term 'taxable chemical' shall not include any qualified petrochemical which is used or sold for use in the manufacture or production of any qualified fuel, including the use of such petrochemical—

"(i) as a qualified fuel,

"(ii) reacted to make products used to make a qualified fuel, or

"(iii) blended with fuel products for use as a qualified fuel.

"(B) QUALIFIED PETROCHEMICALS.—The term 'qualified petrochemical' means acetylene, benzene, butane, butylene, butadiene, ethylene, methane, naphthalene, propylene, toluene, or xylene.

"(C) QUALIFIED FUELS.—The term 'qualified fuel' means any motor fuel, diesel fuel, aviation fuel, or jet fuel.

"(D) USE BY PURCHASER.—Under regulations prescribed by the Secretary, if any person purchases any qualified petrochemical for any use or sale described in subparagraph (A) and then uses or sells such petrochemical for a purpose other than such use or sale, such person shall be treated as the manufacturer thereof and liable for tax under section 4661(a).

"(6) SUBSTANCES USED IN METAL REFINING PROCESS.—

"(A) IN GENERAL.—No tax shall be imposed under this subchapter on cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, zinc sulfate, or on any solution or mixture containing any of such chemicals, which have a transitory presence during any process of smelting, refining, or otherwise extracting copper, lead, zinc, or other metal from ores, concentrates, or other metal-bearing substances which are not subject to tax under section 4661(a).

"(B) REMOVAL OF SUBSTANCES.—The removal by any person for use, sale, disposal, or storage of cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, zinc sulfate, or any solution or mixture containing any of such chemicals, from any such process of smelting, refining, or otherwise extracting metal from ores shall be treated as the use of such chemicals by such person, and shall be subject to tax under section 4661(a).".

(b) CLARIFICATION OF USE FOR FERTILIZER PRODUCTION.—Paragraph (2) of section 4662(b) (relating to exceptions and other special rules) is amended to read as follows:

"(2) SUBSTANCES USED IN THE PRODUCTION OF FERTILIZER.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4661(a) on the use or resale for use of any of the following chemicals:

"(i) methane used to produce ammonia,

"(ii) nitric acid,

"(iii) sulfuric acid, or

"(iv) ammonia,

as a qualified substance (and, for purposes of section 4661(a), any person who uses or resells any such chemical for use otherwise than as a qualified substance shall be treated as the manufacturer thereof).

"(B) QUALIFIED SUBSTANCE.—The term 'qualified substance' means any substance—

"(i) used in a qualified use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified use, or

"(iii) sold for resale by any purchaser for use or resale for ultimate use in a qualified use.

"(C) QUALIFIED USE.—The term 'qualified use' means any use in the manufacture or production of a fertilizer or for direct application as a fertilizer.".

(c) CONFORMING AMENDMENT.—Subsection (c) of section 4662 (relating to use by manufacturers, etc., considered sale) is amended by inserting "(except as provided in subsection (b))" after "then".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 211(a) of the Hazardous Substance Response Revenue Act of 1980.

(2) WAIVER OF LIMITATIONS.—Under regulations prescribed by the Secretary, notwithstanding section 6511(a) or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of tax by reason of the amendments made by this section, may be filed by any person within the 1-year period beginning on the date of the enactment of this Act. Section 6511(b) and section 6514 of the Internal Revenue Code of 1954 shall not apply to any claim for credit or refund filed under this paragraph within such 1-year period.

Subtitle D—Employee Benefits

SEC. 825. TAXATION OF UNEMPLOYMENT COMPENSATION NOT TO APPLY TO COMPENSATION PAID FOR WEEKS OF UNEMPLOYMENT ENDING BEFORE DECEMBER 1, 1978.

(a) GENERAL RULE.—Subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows:

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978.".

(b) WAIVER OF STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim thereon is filed before the close of such 1-year period.

SEC. 826. EMPLOYEE STOCK OPTIONS.

(a) IN GENERAL.—Section 83 (relating to property transferred in connection with performance of services) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ELECTION WITH RESPECT TO STOCK TRANSFERRED PURSUANT TO EMPLOYEE STOCK OPTION.—

"(1) IN GENERAL.—If the application of this subsection is elected by a corporation with respect to any transfer of stock of such corporation to an individual pursuant to an employee stock option granted by such corporation—

"(A) subsection (a) shall not apply with respect to such transfer, and

"(B) the amount which would have been included in the gross income of such individual for any taxable year by reason of the application of subsection (a) to such transfer shall be included in the gross income of such individual for the taxable year in which such individual disposes of such stock.

"(2) EMPLOYMENT REQUIREMENT.—

"(A) IN GENERAL.—This subsection shall not apply with respect to any employee stock option granted by a corporation to an individual if such individual was not an employee of such corporation, or of a parent or subsidiary corporation of such corporation, at any time during the period that begins on the date on which such option is granted and ends on the date which is 3 months before the date such option is exercised.

"(B) RETIREMENT.—Any cessation of employment of an individual which is caused by the retirement of such individual after such individual has attained 55 years of age shall not be taken into account under subparagraph (A).

"(3) ELECTION.—An election to apply this subsection with respect to a transfer of stock of a corporation to an individual shall be made by such corporation in such form and in such manner as the Secretary may prescribe by regulations.

"(4) EMPLOYEE STOCK OPTION DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employee stock option' means any option to purchase stock which is granted to an individual who at the time of the grant was an employee of the corporation granting such option or a parent or subsidiary corporation of such corporation, but only if—

"(i) the option is not for the purchase of statutory option stock (within the meaning of section 425(c)(3)(B));

"(ii) such option by its terms—

"(I) requires that stock certificates issued upon exercise of such option be retained by the corporation or its agent for the benefit of the employee, or

"(II) requires the use of restrictive legends or stop-transfer instructions with respect to such stock certificates;

"(iii) the option price is not less than the fair market value of the stock at the time such option is granted;

"(iv) the terms of such option provide that the option is not exercisable while there is outstanding any other option described in this subparagraph or an incentive stock option (within the meaning of section 422A(b)) to purchase stock in—

"(I) the employer corporation,

"(II) a corporation that (at the time of the granting of such option) is a parent or subsidiary corporation of the employer corporation, or

"(III) a predecessor corporation of any of such corporations,

which was granted before the granting of such option;

"(v) such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution and is exercisable, during the lifetime of such individual, only by such individual, and

"(vi) the sum of—

"(I) the fair market value of stock that may be acquired pursuant to such option (determined at the time such option is granted), plus

"(II) the aggregate fair market value of all stock that may be acquired pursuant to options described in this subparagraph to purchase stock in any corporation described in subclause (I), (II), or (III) of clause (iv) which were granted to such individual prior to such option during the calendar year in which such option was granted (determined at the time such options were granted), plus

"(III) the aggregate fair market value of all stock that may be acquired pursuant to incentive stock options (within the meaning of section 422A(b)) to purchase stock in any corporation described in subclause (I), (II), or (III) of clause (iv) which were granted by such corporation to such individual during the calendar year in which such option was granted (determined at the time such incentive stock options were granted),

does not exceed $100,000.

"(B) SPECIAL RULES.—

"(i) NOTICE OF DISPOSITION TO CORPORATION.—An option meets the requirements of subparagraph (A)(ii) if the terms of the option require that any stock certificate of a corporation issued upon exercise of such option indicate on the face of such certificate that transfer of the stock is subject to the provision of notice to the corporation of such transfer.

"(ii) OPTION OUTSTANDING.—For purposes of subparagraph (A)(iv), an option shall be treated as being outstanding if such option—

"(I) has not been exercised in full, or

"(II) has not expired by reason of lapse of time.

"(iii) FAIR MARKET VALUE.—For purposes of subparagraph (A), the fair market value of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(5) MODIFICATION, EXTENSION, OR RENEWAL OF OPTION.—For purposes of this subsection—

"(A) IN GENERAL.—If the terms of any option to purchase stock are modified, extended, or renewed, such modification, extension, or renewal shall be considered as the granting of a new option.

"(B) MODIFICATION DEFINED.—The term 'modification' means any change in the terms of the option which gives the employee additional benefits under the option, but such term shall not include a change in the terms of the option—

"(i) attributable to the issuance or assumption of an option described in section 425 (a), or

"(ii) in the case of an option not immediately exercisable in full, to accelerate the time at which the option may be exercised.

"(6) NOTIFICATION OF SALE OF OPTION STOCK.—No deduction shall be allowable under this chapter to an employer corporation with respect to any employee stock option until the employer corporation provides notice to the Secretary (in such form and in such manner as the Secretary may prescribe by regulations) of the sale of stock pursuant to such employee stock option.

"(7) NONDISCRIMINATING PROVISION.—

"(A) IN GENERAL.—A corporation may elect the application of this subsection only if the corporation does not discriminate in favor of—

"(i) shareholders of the corporation who own 5 percent or more of—

"(I) the total combined voting power of all classes of stock of the corporation entitled to vote, or

"(II) the total value of share of all classes of stock of the corporation, or

"(ii) officers of the corporation who annually earn more than twice the amount specified in section 415 (c)(1)(A),

in the granting of employee stock options or in the making of elections under this section.

"(B) DISCRIMINATION PRESUMED.—For purposes of this paragraph, a corporation shall be treated as discriminating in favor of shareholders or officers described in subparagraph (A) in the granting of employee stock options if—

"(i) more than 60 percent of the aggregate fair market value of the employee stock options granted by such corporation in any calendar year beginning after 1983, or

"(ii) more than 60 percent of the aggregate fair market value of employee stock options granted by such corporation at any time before January 1, 1984,

is granted to shareholders or officers described in subparagraph (A).

"(C) EMPLOYEES UNDER COMMON CONTROL.—For purposes of this paragraph—

"(i) CONTROLLED GROUP OF CORPORATIONS.—All employees of all corporations which are members of a controlled group of corporations (within the meaning of sections 1563(a), determined without regard to section 1563(a)(4) and (e)(3)(C)) shall be treated as employed by a single employer.

"(ii) PARTNERSHIPS, PROPRIETORSHIPS, ETC.—Under regulations prescribed by the Secretary, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer. The regulations prescribed under this subsection shall be based on principles similar to the principles which apply under clause (i).

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

"(A) DISPOSITION.—For purposes of this subsection, the term 'disposition' has the meaning given such term in section 425(c)(1) (determined without regard to subparagraph (A) thereof).

"(B) PARENT CORPORATION.—The term 'parent corporation' has the meaning given to such term by section 425(e).

"(C) SUBSIDIARY CORPORATION.—The term 'subsidiary corporation' has the meaning given to such term by section 425(f).".

(b) DEDUCTION FOR EMPLOYER.—Subsection (h) of section 83 (relating to deduction by employer) is amended by striking out "or (d)(2)" and inserting in lieu thereof "(d)(2), or (i)".

(c) DEFERRED INCOME TREATED AS ITEM OF TAX PREFERENCE FOR MINIMUM TAX PURPOSES.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(13) CERTAIN STOCK TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.—In the case of stock with respect to which an election is made under section 83(i), the amount which would be included in gross income for the taxable year with respect to such stock by reason of section 83(a) if section 83(i) were not elected.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the transfer of stock pursuant to the exercise of stock options after the date of the enactment of this Act.

SEC. 827. TECHNICAL AMENDMENTS TO THE INCENTIVE STOCK OPTION PROVISIONS.

(a) DETERMINATION OF FAIR MARKET VALUE.—

(1) IN GENERAL.—Subsection (c) of section 422A (relating to special rules) is amended by adding at the end thereof of the following new paragraph:

"(10) FAIR MARKET VALUE.—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.".

(2) INCENTIVE STOCK OPTION AS AN ITEM OF TAX PREFERENCE.—Paragraph (10) of section 57(a) (relating to items of tax preference) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction which, by its terms, will never lapse.".

(b) MODIFICATION OF INCENTIVE STOCK OPTIONS.—Subparagraph (B) of section 425(h)(3) (relating to modifications) is amended by striking out "422A(b)(5),".

(c) EFFECTIVE DATES.—

(1) FAIR MARKET VALUE.—The amendment made by subsection (a) shall apply to options granted after March 20, 1984.

(2) ITEMS OF TAX PREFERENCE.—The amendment made by subsection (b) shall apply to options exercised after March 20, 1984.

(3) MODIFICATIONS.—The amendment made by subsection (c) shall apply with respect to modifications of options after March 20, 1984.

SEC. 828. EMPLOYEE ACHIEVEMENT AWARDS.

(a) EXCLUSION FROM GROSS INCOME.—Section 74 (relating to prizes and awards) is amended—

(1) by striking out "Except as provided in subsection (b) and" in subsection (a) and inserting in lieu thereof "Except as otherwise provided in this section or", and

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

"(c) QUALIFIED EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, gross income shall include that portion of the value of a qualified employee achievement award received by the taxpayer that does not exceed an amount equal to the excess of—

"(A) the lesser of—

"(i) the cost to the employer of the qualified employee achievement award, or

"(ii) the value to the employee of the qualified employee achievement award, over

"(B) the amount allowable to the employer (or which would be allowable if the employer were not exempt from taxation under this title) as a deduction for the cost of the qualified employee achievement award.

The remaining portion of the value of the qualified employee achievement award shall not be included in the gross income of the recipient.

"(2) QUALIFIED EMPLOYEE ACHIEVEMENT AWARD.—For purposes of this subsection, the term 'qualified employee achievement award' means any employee achievement award (within the meaning of section 274(k)(3)(A)) which—

"(A) is awarded as part of a meaningful presentation,

"(B) is awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation, and

"(C) constitutes—

"(i) a watch, clock, or other timepiece,

"(ii) an item of emblematic jewelry or a ring that has been custom designed and manufactured to identify or symbolize the awarding employer or the achievement being recognized,

"(iii) to the extent provided in regulations prescribed by the Secretary, an item which is of a type traditionally used to make a retirement award,

"(iv) to the extent provided in regulations prescribed by the Secretary, an item which is of a type traditionally used to make a nonretirement employee achievement award, or

"(v) any accessory for personal wear, use, or display which is permanently and promi-

nently affixed to an item described in clause (i) or (ii) provided that such accessory does not constitute a significant element of cost.".

(b) GIFTS.—Section 274(b) (relating to gifts) is amended—

(1) by inserting ", or" after "generally by the taxpayer" in subparagraph (1)(A),

(2) by striking out "or" after "of the recipient" in subparagraph (1)(B), and inserting a period,

(3) by striking out subparagraph (1)(C), and

(4) by striking out paragraph (3).

(c) EMPLOYEE BENEFIT PLANS.—Section 414 (relating to employee benefits plans) is amended—

(1) by inserting "274(j)," before "401" in subsection (b),

(2) by inserting "274(j)," before "401" in subsection (c), and

(3) by striking out "and (D) section 125." after "(C) section 105(h)," and inserting in lieu thereof "(D) section 125, and (E) section 274(j)." in subsection (m).

(d) DEDUCTION FOR COST OF EMPLOYEE ACHIEVEMENT AWARDS.—Section 274 (relating to certain entertainment, etc., expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) GENERAL RULE.—A deduction allowed under section 162 or section 212 for the cost of an employee achievement award shall be allowed only to the extent that such cost does not exceed the deduction limitations of paragraph (2).

"(2) DEDUCTION LIMITATIONS.—The deduction for the cost of one or more qualified plan awards awarded by an employer to an employee during the same year for the same qualifying achievement shall not exceed $1,600, and the deduction for the cost of such items awarded by an employer to an employee during the same year for the same qualifying achievement which are not qualified plan awards shall not exceed $400.

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

"(A) EMPLOYEE ACHIEVEMENT AWARD.—

"(i) IN GENERAL.—The term 'employee achievement award' means an item of tangible personal property transferred by an employer to an employee for a qualifying achievement, which the employer does not elect to treat in its entirety as compensation to the employee.

"(ii) EXCEPTION.—An item shall not constitute an employee achievement award if—

"(I) such item is provided to a key employee, and

"(II) more than 10 percent of the cost paid or incurred by the taxpayer during the same year is for items which would, but for this clause, constitute employee achievement awards awarded to key employees.

"(B) QUALIFYING ACHIEVEMENT.—The three qualifying achievements for an employee achievement award are length of service (including retirement), productivity, and safety achievement.

"(C) EMPLOYER.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer.

"(D) QUALIFIED PLAN AWARD.—The term 'qualified plan award' means an employee achievement award provided under a qualified plan which the employer elects to treat as a qualified plan award, and which meets the requirement of subparagraph (E).

"(E) QUALIFIED PLAN.—The term 'qualified plan' means an established written plan or program of the employer to provide employee achievement awards.

"(F) KEY EMPLOYEE DEFINED.—The term 'key employee' has the meaning given to such term by paragraph (1) of section 416(i), except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (4)(C)(ii) who are not eligible to receive qualified plan awards under the plan.

"(4) SPECIAL RULES FOR QUALIFIED PLAN AWARDS.—

"(A) AVERAGE COST OF AWARDS.—An employee achievement award shall not be treated as a qualified plan award if the average cost per recipient of all employee achievement awards which were provided by the employer during the year for the same qualifying achievement, and which would be qualified plan awards but for this subparagraph, exceeds $400. For purposes of this subparagraph, a 'recipient' shall be any employee who received a qualified plan award for that qualifying achievement during the year, and average cost shall be calculated by including the entire cost of qualified plan awards provided for that qualifying achievement. Average cost shall be calculated without taking into account employee achievement awards of nominal value.

"(B) NONDISCRIMINATION REQUIREMENT.—

"(i) IN GENERAL.—An employee achievement award provided to a key employee under a discriminatory qualified plan shall not be treated as a qualified plan award.

"(ii) DISCRIMINATORY QUALIFIED PLAN.—For purposes of this paragraph, the term 'discriminatory qualified plan' means any qualified plan of an employer unless—

"(I) the plan does not discriminate in favor of key employees as to eligibility to receive qualified plan awards, and

"(II) the type and cost of qualified plan awards available under the plan does not discriminate in favor of participants who are key employees.

"(C) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATION.—

"(i) IN GENERAL.—A qualified plan does not meet requirements of paragraph (4)(B)(ii)(I) unless—

"(I) 70 percent or more of all employees of the employer are eligible for qualified plan awards under such plan,

"(II) at least 85 percent of all employees who are eligible for qualified plan awards under such plan are not key employees, or

"(III) the employees who are eligible for qualified plan awards under such plan are determined under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees.

"(ii) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this subparagraph, there may be excluded from consideration—

"(I) employees who have not completed 3 years of service;

"(II) part-time or seasonal employees;

"(III) employees not included in the qualified plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if methods or standards for recognizing employee achievements were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(IV) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(D) NONDISCRIMINATORY BENEFITS.—A qualified plan does not meet the requirements of paragraph (4)(B)(ii)(II) unless all qualified plan awards available under the plan to key employees are available under the plan to all other employees who are eligible to receive qualified plan awards under the plan.

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) PARTNERSHIPS.—In the case of an employee achievement award provided by a partnership, the deduction limitations contained in paragraph (2) shall apply to the partnership as well as to each member thereof.

"(B) LENGTH OF SERVICE AWARDS.—

"(i) IN GENERAL.—An item, other than an exempted item, provided by an employer to an employee, shall not be treated as having been provided for length of service achievement if an employee achievement award other than an exempted item was provided by the employer to the employee for length of service achievement during that year or any of the prior three years.

"(ii) EXEMPTED ITEM.—For purposes of this subparagraph, the term 'exempted item' means an employee achievement award which is of nominal value, is provided as part of the replacement of one length of service plan by another, is a retirement award, or is an initial years award.

"(iii) INITIAL YEARS AWARD.—For purposes of this subparagraph, the term 'initial years award' means an employee achievement award provided to an employee for length of service achievement during the first five years of employment with the employer, but only to the extent that the cost of the award, when combined with the cost of all other such awards provided to that employee for those years, does not exceed $200.

"(C) DOLLAR LIMITATIONS.—Except for employee achievement awards of nominal value, the aggregate amount that an employer may deduct for the cost of one or more employee achievement awards provided to an employee for productivity or safety achievement for any consecutive four-year period shall not exceed $1,600 for each category of award.

"(D) LIMITATION ON NUMBER OF RECIPIENTS.—An item provided by an employer to an employee shall not be treated as having been provided for productivity or safety achievement if, during the same year, employee achievement awards (other than awards of nominal value) for productivity or safety achievement, have previously been awarded by the employer to, or earned by, more than 10 percent of the employer's employees.

"(E) NO MULTIPLE ACHIEVEMENT AWARDS.—No item shall be treated as an employee achievement award for more than one qualifying achievement.

"(F) INFORMATION AND RETURNS.—The Secretary shall have authority to require any person, by notice served upon such person or by regulations, to make such returns, render such statements, and keep such records as may be appropriate to show whether or not such person has complied with the provisions of this section, including information with respect to numbers, types, costs, and recipients of employee achievement awards, and the numbers and types of qualified plans maintained, the numbers and costs of items awarded under such

plans, and the employees eligible to receive awards under such plans.".

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

SEC. 829. MORATORIUM ON ISSUANCE OF FRINGE BENEFIT REGULATIONS.

(a) IN GENERAL.—Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (26 U.S.C. 61 note) (relating to fringe benefit regulations), is amended by striking out "December 31, 1983" each place it appears and inserting in lieu thereof "December 31, 1985".

(b) FACULTY HOUSING.—

(1) IN GENERAL.—For purposes of section 1(a) of such Act, any regulation providing for the inclusion in gross income under section 61 of the Internal Revenue Code of 1954 of the excess (if any) of the fair market value of qualified campus lodging over the greater of—

(A) the operating costs paid or incurred in furnishing such lodging, or

(B) the rent received for such lodging,

shall be considered to be a fringe benefit regulation.

(2) QUALIFIED CAMPUS LODGING.—For purposes of this subsection, the term "qualified campus lodging" means lodging which is—

(A) located on (or in close proximity to) a campus of an educational institution (described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954), and

(B) provided by such institution to an employee of such institution, or to a spouse or dependent (within the meaning of section 152 of such Code) of such employee.

(3) SECTION NOT TO APPLY TO AMOUNTS TREATED AS WAGES (OR INCOME).—An amount—

(A) shall not be excluded from treatment as wages by reason of this subsection if the employer treated such amount as wages when paid, and

(B) shall not be excluded from gross income by reason of this subsection if such amount was included in gross income by the taxpayer for the taxable year during which such amount was received or accrued.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—THE AMENDMENTS MADE BY SUBSECTION (A) OF THIS SECTION SHALL TAKE EFFECT ON THE DATE OF THE ENACTMENT OF THIS ACT.

(2) SUBSECTION (b).—SUBSECTION (B) OF THIS SECTION SHALL APPLY TO LODGING FURNISHED AFTER DECEMBER 31, 1983, AND BEFORE JANUARY 1, 1986.

SEC. 830. PICKUPS UNDER SALARY REDUCTION ARRANGEMENTS.

(a) SOCIAL SECURITY ACT.—Section 209 of the Social Security Act is amended by striking out "section 414(h)(2) of such Code" in the matter added by section 324(c)(1) of the Social Security Amendments of 1983 and inserting in lieu thereof "section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction arrangement (whether evidenced by a written instrument or otherwise)".

(b) INTERNAL REVENUE CODE OF 1954.—

(1) FICA.—Subparagraph (B) of section 3121(v)(1) is amended to read as follows:

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction arrangement (whether evidenced by a written instrument or otherwise).".

(2) FUTA.—Subparagraph (B) of section 3306(r)(1) is amended to read as follows:

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction arrangement (whether evidenced by a written instrument or otherwise).".

Subtitle E—Miscellaneous Treasury Administrative Provisions

SEC. 831. SIMPLIFICATION OF CERTAIN REPORTING REQUIREMENTS.

(a) DISC REPORT.—

(1) Section 506 of the Revenue Act of 1971 (relating to submission of annual reports to Congress) is amended to read as follows:

"SEC. 506. SUBMISSION OF REPORTS TO CONGRESS.

"The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 27½ months following the close of such calendar year setting forth an analysis of the operation and effect of the provisions of this title.".

(2) The amendment made by paragraph (1) shall apply to reports for calendar years after 1980.

(b) REPORT ON POSSESSIONS CORPORATIONS.—The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 24 months following the close of such calendar year setting forth an analysis of the operation and effect of sections 936 and 934(b) of the Internal Revenue Code of 1954.

(c) HIGH INCOME TAXPAYER REPORT.—

(1) Section 2123 of the Tax Reform Act of 1976 is amended to read as follows:

"SEC. 2123. HIGH INCOME TAXPAYER REPORT.

"The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax.".

(2) The amendment made by paragraph (1) shall apply to information published after the date of the enactment of this Act.

(d) INTERNATIONAL BOYCOTT REPORTS.—

(1) Section 1067 of the Tax Reform Act of 1976 is amended to read as follows:

"SEC. 1067. REPORTS BY THE SECRETARY.

"(a) GENERAL RULE.—As soon after the close of each 4-year period as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth for such 4-year period—

"(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within each calendar year in such 4-year period,

"(2) the number of such reports with respect to each such calendar year on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

"(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such 4-year period.

"(b) 4-YEAR PERIOD.—For purposes of subsection (a), the term '4-year period' means the period consisting of 4 calendar years beginning with calendar year 1982 and each subsequent fourth calendar year.".

(2) The amendment made by paragraph (1) shall apply to reports for periods after December 31, 1981.

SEC. 832. REMOVAL OF $1,000,000 LIMITATION ON WORKING CAPITAL FUND.

The last sentence of section 322(a) of title 31, United States Code (placing a $1,000,000 limitation on the working capital fund for the Department of the Treasury), is hereby repealed.

SEC. 833. INCREASE IN LIMITATION ON REVOLVING FUND FOR REDEMPTION OF REAL PROPERTY.

Subsection (a) of section 7810 (relating to revolving fund for redemption of real property) is amended by striking out "$1,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 834. REMOVAL OF $1,000,000 LIMITATION ON SPECIAL AUTHORITY TO DISPOSE OF OBLIGATIONS.

Subsection (b) of section 324 of title 31, United States Code (relating to disposing and extending the maturity of obligations), is amended by striking out the last sentence.

SEC. 835. SECRETARY OF THE TREASURY AUTHORIZED TO ACCEPT GIFTS AND BEQUESTS.

Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

"(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

"(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

"(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended.".

SEC. 836. EXTENSION OF PERIOD FOR COURT REVIEW OF JEOPARDY ASSESSMENT WHERE PROMPT SERVICE NOT MADE ON THE UNITED STATES.

(a) GENERAL RULE.—Paragraph (2) of section 7429(b) (relating to judicial review) is amended by adding at the end thereof the following new sentence:

"If the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions commenced after the date of the enactment of this Act.

SEC. 837. EXTENSION OF PERIOD DURING WHICH ADDITIONAL TAX SHOWN ON AMENDED RETURN MAY BE ASSESSED.

(a) GENERAL RULE.—Subsection (c) of section 6501 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN AMENDED RETURNS.—Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents received by the Secretary of the Treasury (or his delegate) after the date of the enactment of this Act.

SEC. 838. FINANCIAL REPORTING OF INVESTMENT TAX CREDITS.

(a) IN GENERAL.—Paragraph (1) of section 101(c) of the Revenue Act of 1971 (85 Stat. 499) (relating to accounting for investment credit in certain financial reports and reports to Federal agencies) is amended—

(1) by inserting "and" at the end of subparagraph (A),

(2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(3) by striking out subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Revenue Act of 1971.

SEC. 839. REPORT ON REGULATED FUTURES CONTRACTS LITIGATION.

The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives before October 1, 1984, with respect to progress made by the Secretary of the Treasury or his delegate in reducing the backlog of cases involving the tax treatment of certain regulated futures contracts to which the provisions of Federal tax law in effect before 1981 apply.

SEC. 840. TREATMENT OF CERTAIN GUARANTEED DRAFTS ISSUED BY FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Paragraph (2) of section 6311(b) (relating to liability of banks and others) is amended—

(1) by striking out "or cashier's check" and inserting in lieu thereof "or cashier's check (or other guaranteed draft)",

(2) by striking out "the amount of such check" and inserting in lieu thereof "the amount of such check (or draft)",

(3) by striking out "the bank or trust company" and inserting in lieu thereof "the financial institution", and

(4) by striking out "such bank" each place it appears and inserting in lieu thereof "such financial institution".

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

SEC. 841. DISCLOSURE OF WINDFALL PROFIT TAX INFORMATION TO STATE TAX OFFICIALS.

(a) GENERAL RULE.—Paragraph (1) of section 6103(d) (relating to disclosure to State tax officials) is amended by striking out "44, 51" and inserting in lieu thereof "44, 45, 51".

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

SEC. 842. EXTENSION OF STATUTORY LIMITATIONS TO THE EXTENDED TIME GIVEN TO DESIGNATE RECEIPTS AS CAPITAL CONTRIBUTIONS.

(a) IN GENERAL.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(r) SPECIAL RULES FOR CONTRIBUTIONS TO CAPITAL OF CORPORATION.—In the case of a deficiency attributable to the failure to meet the requirements of the expenditure rule of section 118(b)(2), such deficiency may be assessed at any time within 3 years after such failure.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to failures occurring after December 31, 1984.

Subtitle F—Provisions Relating to Distilled Spirits

SEC. 843. REPEAL OF OCCUPATIONAL TAX ON MANUFACTURERS OF STILLS AND CONDENSERS; NOTICES OF MANUFACTURE AND SET UP OF STILLS.

(a) IN GENERAL.—Subpart C of part II of subchapter A of chapter 51 (relating to manufacturers of stills) is amended to read as follows:

"Subpart C—Manufacturers of Stills

"Sec. 5101. Notice of manufacture of still; notice of set up of still.

"Sec. 5102. Definition of manufacturer of stills.

"SEC. 5101. NOTICE OF MANUFACTURE OF STILL; NOTICE OF SET UP OF STILL.

"(a) NOTICE REQUIREMENTS.—

"(1) NOTICE OF MANUFACTURE OF STILL.—The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

"(2) NOTICE OF SET UP OF STILL.—The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

"(b) PENALTIES, ETC.—

"(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

"(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see sections 5601(a)(1) and 5615(1).

"SEC. 5102. DEFINITION OF MANUFACTURER OF STILLS.

"Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 5179(b) (relating to registration of stills) is amended to read as follows:

"(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).".

(2) Paragraph (2) of section 5615 (relating to property subject to forfeiture) is amended to read as follows:

"(2) DISTILLING APPARATUS REMOVED WITHOUT NOTICE OR SET UP WITHOUT NOTICE.—Any still, boiler, or other vessel to be used for the purpose of distilling—

"(A) which is removed without notice having been given when required by section 5101(a)(1), or

"(B) which is set up without notice having been given when required by section 5101(a)(2); and".

(3) Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes relating to liquors) is amended by striking out "limited retail dealer, or manufacturer of stills" and inserting in lieu thereof "or limited retail dealer".

SEC. 844. ALLOWANCE OF DRAWBACK CLAIMS EVEN WHERE CERTAIN REQUIREMENTS NOT MET.

Section 5134 (relating to drawback) is amended by adding at the end thereof the following new subsection:

"(c) ALLOWANCE OF DRAWBACK EVEN WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which were unfit for beverage purposes.

"(2) PENALTY.—

"(A) IN GENERAL.—In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of $1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

"(B) PENALTY MAY NOT EXCEED AMOUNT OF CLAIM.—The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

"(3) PENALTY TREATED AS TAX.—The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6662(a).".

SEC. 845. DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL

LAWS.—Notwithstanding any other provision of this section, the Secretary may disclose—

"(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

"(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) (relating to records of inspection and disclosure) is amended by striking out "(5), or (7)" and inserting in lieu thereof "(5), (7), (8), or (9)".

(2) The material preceding subparagraph (A) of paragraph (4) of section 6103(p) is amended by striking out "or (7)" and inserting in lieu thereof "(7), (8), or (9)".

(3) Clause (i) of section 6103(p)(4)(F) is amended by striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), (8), or (9)".

(4) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "or (8)" and inserting in lieu thereof "(8), or (9)".

(5) Section 127(a)(1) of Public Law 96-249 is amended by striking out "Subsection (i)" and inserting in lieu thereof "Subsection (l)".

(6) The paragraph (7) of section 6103(l) added by Public Law 96-265 is hereby redesignated as paragraph (8).

SEC. 846. REPEAL OF STAMP REQUIREMENT FOR DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5205 (relating to stamps) is hereby repealed.

(b) BOTTLES MUST HAVE OTHER ANTITAMPERING CLOSURE.—Section 5301 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CLOSURES.—The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The second sentence of section 5062(b) (relating to drawback in case of exportation) is amended by striking out "stamped or restamped, and".

(2) Paragraph (2) of section 5066(a) (relating to bottled distilled spirits eligible for export with benefit of drawback) is amended by striking out "stamped or restamped, and marked," and inserting in lieu thereof "marked".

(3) Subsection (b) of section 5116 (relating to cross references) is amended to read as follows:

"(b) CROSS REFERENCE.—

"For provisions relating to containers of distilled spirits, see section 5206.".

(4) Subsection (c) of section 5204 (relating to gauging) is amended—

(A) by striking out "STAMPING," in the heading, and

(B) by striking out "stamping," in the text.

(5)(A) Section 5206 (relating to containers) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) EFFACEMENT OF MARKS AND BRANDS ON EMPTIED CONTAINERS.—Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.".

(B) Subsection (f) of section 5206, as redesignated by subparagraph (A), is amended by adding at the end thereof the following new paragraphs:

"(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

"(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.".

(6) Paragraph (4) of section 5207(a) (relating to records and reports) is amended by striking out subparagraph (D), by adding "and" at the end of subparagraph (B), and by striking out ", and" at the end of subparagraph (C) and inserting in lieu thereof a period.

(7) Subsection (c) of section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended—

(A) by striking out "RESTAMPING" in the heading and inserting in lieu thereof "RECLOSING", and

(B) by striking out "restamping" in the text and inserting in lieu thereof "reclosing".

(8) Section 5235 (relating to bottling of alcohol for industrial purposes) is amended by striking out "stamped," in the first sentence and by striking out the second sentence.

(9) Subsection (c) of section 5301 (relating to regulation of traffic in containers of distilled spirits) is amended—

(A) by striking out "stamping" in paragraphs (1) and (3) and inserting in lieu thereof "tax determination", and

(B) by striking out ", if the liquor bottles are to be again stamped under the provisions of this chapter".

(10) Subsection (a) of section 5555 (relating to records, statements, and returns) is amended by striking out "or for the affixing of any stamp required to be affixed by this chapter,".

(11)(A) Section 5604 (relating to penalties relating to stamps, marks, brands, and containers) is amended to read as follows:

"SEC. 5604. PENALTIES RELATING TO MARKS, BRANDS, AND CONTAINERS.

"(a) IN GENERAL.—Any person who shall—

"(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d);

"(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,

"(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),

"(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,

"(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

"(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

"(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than $10,000 or imprisoned not more than 5 years, or both, for each such offense.

"(b) CROSS REFERENCES.—

"For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608.".

(B) The table of sections for part I of subchapter J of chapter 51 is amended by striking out the item relating to section 5604 and inserting in lieu thereof the following:

"Sec. 5604. Penalties relating to marks, brands, and containers.".

(12)(A) Subsection (b) of section 5613 (relating to forfeiture of distilled spirits not stamped, marked, or branded as required by law) is amended to read as follows:

"(b) CONTAINERS WITHOUT CLOSURES.—All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.".

(B) The section heading of section 5613 is amended by striking out "STAMPED" and inserting in lieu thereof "CLOSED".

(C) The item relating to section 5613 in the table of sections for part I of subchapter J of chapter 51 is amended by striking out "stamped" and inserting in lieu thereof "closed".

(13) Subsection (b) of section 6801 (relating to authority for establishment, alteration, and distribution) is amended by striking out "several stamp taxes;" and all that follows and inserting in lieu thereof "several stamp taxes."

(14) The table of sections for part I of subchapter C of chapter 51 is amended by striking out the item relating to section 5205.

SEC. 847. MODIFICATION OF PAYMENT DATE AND REQUIREMENT OF ELECTRONIC FUNDS TRANSFER FOR ALCOHOL AND TOBACCO EXCISE TAXES.

(a) ALCOHOL PRODUCTS.—Section 5061 (relating to method of collecting tax on distilled spirits, etc.) is amended—

(1) by striking out subsection (d), and

(2) by adding at the end thereof the following new subsections:

"(d) TIME FOR PAYMENT OF TAXES ON DISTILLED SPIRITS, WINES, AND BEER.—

"(1) IN GENERAL.—In the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax or from bonded premises (including customs custody), the last day for such payment of such tax shall

be the 14th day after the last day of the semimonthly period during which the withdrawal occurred.

"(2) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under paragraph (1) would fall on a Saturday, Sunday, or a Federal holiday, such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

"(e) PAYMENT BY ELECTRONIC FUND TRANSFER.—

"(1) IN GENERAL.—Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

"(2) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.".

(b) TOBACCO PRODUCTS.—Subsection (b) of section 5703 (relating to method of payment of tax on tobacco) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) TIME FOR PAYMENT OF TAXES.—

"(A) IN GENERAL.—In the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period, the last day for the payment of such taxes shall be the 14th day after the last day of such semimonthly period.

"(B) SPECIAL RULE WHERE 14TH DAY FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this subsection, the due date under paragraph (1) would fall on a Saturday, Sunday, or a Federal holiday, such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday.

"(3) PAYMENT BY ELECTRONIC FUND TRANSFER.—Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay during the succeeding calendar year such taxes by electronic fund transfer (as defined in section 5061(b)(2)) to the Federal Reserve Bank.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid after June 30, 1984 for semimonthly periods ending on or after such date.

(2) SPECIAL RULE FOR SEMIMONTHLY PERIOD ENDING JUNE 15, 1984.—With respect to remittances for taxes imposed on distilled spirits under section 5001 of the Internal Revenue Code of 1954 and tobacco products and cigarette papers and tubes under section 5701 of such Code for the semimonthly period ending on June 15, 1984, the last day for such remittances shall be July 16, 1984.

SEC. 848. COOKING WINE MAY BE FORTIFIED USING DISTILLED SPIRITS.

(a) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).".

(b) LIABILITY FOR TAX.—

(1) Paragraph (1) of section 5005(e) (relating to withdrawals without payment of tax) is amended by striking out "or (10)" and inserting in lieu thereof "(10), or (13)".

(2) Paragraph (2) of section 5005(e) is amended by inserting "used in the production of nonbeverage wine or wine products," after "used in the production of wine,".

(c) TECHNICAL AMENDMENT.—Section 5354 (relating to bonds for bonded wine cellars) is amended by striking out "wine spirits" each place it appears and inserting in lieu thereof "distilled spirits".

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

SEC. 849. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this subtitle or in subsection (b) of this section, the amendments made by this subtitle shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

(b) REPEAL OF STAMP REQUIREMENT.—The amendments made by section 858 shall take effect on July 1, 1985.

Subtitle G—Simplification and Extension of Income Tax Credits

SEC. 850. SHORT TITLE.

This subtitle may be cited as the "Tax Credit Simplification Act of 1984".

SEC. 851. CREDITS GROUPED TOGETHER IN MORE LOGICAL ORDER.

(a) CREDITS DIVIDED INTO 4 CATEGORIES.—The table of subparts for part IV of subchapter A of chapter 1 (relating to credits against tax) is amended to read as follows:

"Subpart A. Nonrefundable personal credits.

"Subpart B. Foreign tax credit, etc.

"Subpart C. Refundable credits.

"Subpart D. Business-related credits.".

(b) EXISTING CREDITS ASSIGNED TO APPROPRIATE CATEGORY.—Part IV of subchapter A of chapter 1 is amended by striking out the heading and table of sections for subpart A and inserting in lieu thereof the following:

"Subpart A—Nonrefundable Personal Credits

"Sec. 21. Expenses for household and dependent care services necessary for gainful employment.
"Sec. 22. Credit for the elderly and the permanently and totally disabled.
"Sec. 23. Residential energy credit.
"Sec. 24. Contributions to candidates for public office.
"Sec. 25. Limitation based on tax liability; definition of tax liability.

"Subpart B—Foreign Tax Credit, Etc.

"Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.
"Sec. 28. Clinical testing expenses for certain drugs for rare diseases or conditions.
"Sec. 29. Credit for producing fuel from a nonconventional source.
"Sec. 30. Credit for increasing research activities.

"Subpart C—Refundable Credits

"Sec. 31. Tax withheld on wages.
"Sec. 32. Earned income.
"Sec. 33. Tax withheld at source on nonresident aliens and foreign corporations.
"Sec. 34. Certain uses of gasoline and special fuels.
"Sec. 35. Overpayments of tax.

"Subpart D—Business Related Credits

"Sec. 38. General business credit.
"Sec. 39. Carryback and carry forward of unused credits.
"Sec. 40. Alcohol used as fuel.
"Sec. 41. Employee stock ownership credit.".

(c) SECTIONS MOVED TO APPROPRIATE PLACE IN PART IV.—

(1) DESIGNATION.—The following sections of such part IV are henceforth to be designated in accordance with the following table:

Old section number:	New section number:	New subpart designation:
44A	21	A
37	22	A
44C	23	A
41	24	A
33	27	B
44H	28	B
44D	29	B
44F	30	B
31	31	C
43	32	C
32	33	C
39	34	C
45	35	C
44E	40	D
44G	41	D

(2) PLACED IN APPROPRIATE SUBPARTS.—Each section for which paragraph (1) provides a new section number is hereby moved to the appropriate place in the appropriate subpart of such part IV.

SEC. 852. UNIFORM LIMITATION ON PERSONAL NONREFUNDABLE CREDITS.

Subpart A of part IV of subchapter A of chapter 1 is amended by adding after section 24 the following new section:

"SEC. 25. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY.

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's tax liability for such taxable year.

"(b) TAX LIABILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax liability' means the tax imposed by this chapter for the taxable year.

"(2) EXCEPTION FOR CERTAIN TAXES.—For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

"(A) section 56 (relating to corporate minimum tax),

"(B) subsection (m)(5)(B), (o)(2), or (q) of section 72 (relating to additional tax on certain distributions),

"(C) section 408(f) (relating to additional tax on income from certain retirement accounts),

"(D) section 531 (relating to accumulated earnings tax),

"(E) section 541 (relating to personal holding company tax),

"(F) section 1351(d)(1) (relating to recoveries of foreign expropriation losses),

"(G) section 1374 (relating to tax on certain capital gains of S corporations), and

"(H) section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts).

"(c) SIMILAR RULE FOR ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"For treatment of tax imposed by section 55 as not imposed by this chapter, see section 55(c).".

SEC. 853. UNIFORM CARRYOVER PROVISIONS FOR BUSINESS-RELATED CREDITS.

Subpart D of part IV of subchapter A of chapter 1 is amended by inserting before section 40 the following new sections:

"SEC. 38. GENERAL BUSINESS CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the business credit carryforwards carried to such taxable year,

"(2) the amount of the current year business credit, plus

"(3) the business credit carrybacks carried to such taxable year.

"(b) CURRENT YEAR BUSINESS CREDIT.—For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

"(1) the investment credit determined under section 46(a),

"(2) the targeted jobs credit determined under section 51(a),

"(3) the alcohol fuels credit determined under section 40(a), plus

"(4) the employee stock ownership credit determined under section 41(a).

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

"(A) so much of the taxpayer's net tax liability for the taxable year as does not exceed $25,000, plus

"(B) 85 percent of so much of the taxpayer's net tax liability for the taxable year as exceeds $25,000.

"(2) NET TAX LIABILITY.—For purposes of paragraph (1), the term 'net tax liability' means the tax liability (as defined in section 25(b)), reduced by the sum of the credits allowable under subparts A and B of this part.

"(3) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (1) shall be $12,500 in lieu of $25,000. This subparagraph shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning given to such term by section 1563(a).

"(C) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of a person described in subparagraph (A) or (B) of section 46(e)(1), the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall equal such person's ratable share (as determined under section 46(e)(2)) of such amount.

"(D) ESTATES AND TRUSTS.—In the case of an estate or trust, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced to an amount which bears the same ratio to $25,000 as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

"(d) SPECIAL RULES FOR CERTAIN REGULATED COMPANIES.—In the case of any taxpayer to which section 46(f) applies, for purposes of sections 46(f), 47(a), 196(a), and 404(i) and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under section 40(a), 41(a), 46(a), or 51(a) are used in a taxable year or as a carryback or carryforward, the order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b).

"SEC. 39. CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

"(a) IN GENERAL.—

"(1) 3 YEAR CARRYBACK AND 15 YEAR CARRYFORWARD.—If the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the 'unused credit year'), such excess (to the extent attributable to the amount of the current year business credit) shall be—

"(A) a business credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a business credit carryforward to each of the 15 taxable years following the unused credit year,

and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account under the provisions of section 38(a) in the manner provided in section 38(a).

"(2) AMOUNT CARRIED TO EACH YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit for the unused credit year shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c).

"(b) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under section 38(a)(3) for any preceding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of—

"(1) the amounts determined under paragraphs (1) and (2) of section 38(a) for such taxable year, plus

"(2) the amounts which (by reason of this section) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

"(c) LIMITATION ON CARRYFORWARDS.—The amount of the unused credit which may be taken into account under section 38(a)(1) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of the amounts which, by reason of this section, are carried to such taxable year and are attributable to taxable years preceding the unused credit year.

"(d) TRANSITIONAL RULES.—

"(1) CARRYFORWARDS.—

"(A) IN GENERAL.—Any carryforward from an unused credit year under section 46, 50A, 53, 44E, or 44G which has not expired before the beginning of the first taxable year beginning after December 31, 1983, shall be aggregated with other such carryforwards from such unused credit year and shall be a business credit carryforward to each taxable year beginning after December 31, 1983, which is 1 of the first 15 taxable years after such unused credit year.

"(B) AMOUNT CARRIED FORWARD.—The amount carried forward under subparagraph (A) to any taxable year shall be properly reduced for any amount allowable as a credit with respect to such carryforward for any taxable year before the year to which it is being carried.

"(2) CARRYBACKS.—In determining the amount allowable as a credit for any taxable year beginning before January 1, 1984, as the result of the carryback of a general business tax credit from a taxable year beginning after December 31, 1983, paragraph (1) of subsection (b) shall be applied as if it read as follows:

"'(1) the sum of the credits allowable for such taxable year under sections 38, 40, 44B, 44E, and 44G, plus'.".

SEC. 854. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO OLD AND NEW PROVISIONS.—Whenever in this section reference is made to an old or new section or other provision, the reference is to the provision before (in the case of "old") or after (in the case of "new") the changes made by section 851 of this Act.

(b) OLD SECTION 21.—

(1) REDESIGNATION.—Old section 21 (relating to effect of changes) is redesignated as section 15.

(2) CONFORMING AMENDMENTS.—Sections 441(f)(2)(A) and 6013(c) are each amended by striking out "21" and inserting in lieu thereof "15".

(3) TABLE OF SECTIONS.—The table of sections for part III of subchapter A of chapter 1 is amended by striking out the item relating to section 21 and inserting in lieu thereof the following:

"Sec. 15. Effect of changes.".

(c) NEW SECTION 21.—New section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by striking out subsection (b) and by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively,

(2) by striking out "subsection (c)(1)" in subsection (a) and inserting in lieu thereof "subsection (b)(1)",

(3) by striking out "subsection (c)(2)" in subsection (a) and inserting in lieu thereof "subsection (b)(2)",

(4) by striking out "subsection (c)(1)(C)" in paragraph (2) of subsection (d) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)(C)",

(5) by striking out "subsection (d)(1)" in subparagraph (A) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof, "subsection (c)(1)",

(6) by striking out "subsection (d)(2)" in subparagraph (B) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (c)(2)", and

(7) by striking out "subsection (c)(1)" in subsection (e)(5) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)".

(d) NEW SECTION 22.—New section 22 (relating to the credit for the elderly and the permanently and totally disabled) is amended—

(1) by striking out "section 37 amount" each place it appears in the text and inserting in lieu thereof "section 22 amount",

(2) by striking out the heading of subsection (c) and inserting in lieu thereof "(c) SECTION 22 AMOUNT.—", and

(3) by amending subsection (d) to read as follows:

"(d) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

"(1) $7,500 in the case of a single individual,

"(2) $10,000 in the case of a joint return, or

"(3) $5,000 in the case of a married individual filing a separate return,

the section 22 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.".

(e) NEW SECTION 23.—Subsection (b) of new section 23 (relating to residential energy credit) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 25(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 succeeding taxable year.

"(B) NO CARRYFORWARD TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.".

(f) NEW SECTION 24.—Subsection (b) of new section 24 (relating to contributions to candidates for political office) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(g) NEW SECTION 28.—

(1) New section 28 is amended—

(A) by striking out "section 44F" each place it appears and inserting in lieu thereof "section 30", and

(B) by striking out "section 44F(b)" in subsection (c)(2) and inserting in lieu thereof "section 30(b)," and

(C) by striking out "section 44F(f)" in subsection (d)(4) and inserting in lieu thereof "section 30(f)".

(2) Paragraph (2) of new section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and section 28.".

(h) NEW SECTION 29.—Paragraph (5) of new section 29(b) (relating to credit for producing fuel from a nonconventional source) is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27 and 28.".

(i) NEW SECTION 30.—

(1) New section 30 (relating to credit for increasing research activities) is amended—

(A) by striking out "in computing the credit under section 40 or 44B" in subsection (b)(2)(D)(iii) and inserting in lieu thereof "in determining the targeted jobs credit under section 51(a)", and

(B) by amending subparagraph (A) of subsection (g)(1) to read as follows:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29.".

(2) NEW SECTION 30 TREATED AS CONTINUATION OF OLD SECTION 44F.—For purposes of determining—

(A) whether any excess credit under old section 44F for a taxable year beginning before January 1, 1984, is allowable as a carryover under new section 30, and

(B) the period during which new section 30 is in effect,

new section 30 shall be treated as a continuation of old section 44F (and shall apply only to the extent old section 44F would have applied).

(j) NEW SECTION 33.—New section 33 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended to read as follows:

"SEC. 33. TAX WITHHELD AT SOURCE ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"There shall be allowed as a credit against the tax imposed by this subtitle the amount of tax withheld at source under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and on foreign corporations).".

(k) NEW SECTION 40.—New section 40 (relating to alcohol used as fuel) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.",

(2) by striking out "the credit allowable under this section" in subsection (c) and inserting in lieu thereof "the credit determined under this section",

(3) by striking out "credit was allowable" each place it appears in paragraph (3) of subsection (d) and inserting in lieu thereof "credit was determined",

(4) by striking out subsection (e) and redesignating subsection (f) as subsection (e),

(5) by amending paragraph (2) of subsection (e) (as redesignated by paragraph (4)) to read as follows:

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after December 31, 1994.", and

(6) by adding at the end thereof the following new subsection:

"(f) ELECTION TO HAVE ALCOHOL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(l) NEW SECTION 41.—New section 41 (relating to employee stock ownership plan) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) AMOUNT OF CREDIT.—In the case of a corporation which elects to have this section apply for the taxable year and which meets the requirements of subsection (c)(1), for purposes of section 38, the amount of the employee stock ownership credit determined under this section for the taxable year is an amount equal to the amount of the credit determined under paragraph (2) for such taxable year.",

(2) by amending subsection (b) to read as follows:

"(b) CERTAIN REGULATED COMPANIES.—No credit attributable to compensation taken into account for the ratemaking purposes involved shall be determined under this section with respect to a taxpayer if—

"(1) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to a tax credit employee stock ownership plan which meets the requirements of section 409;

"(2) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan; or

"(3) any portion of the amount of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders.

Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.", and

(3) by striking out "the credit allowed under this section" in subsection (c)(3) and inserting in lieu thereof "the credit determined under this section".

(m) REPEAL OF CERTAIN OLD PROVISIONS.—

(1) Old sections 38, 40, 44, and 44B are hereby repealed.

(2) Old subpart C of part IV of subchapter A of chapter 1 is hereby repealed.

(n) REDESIGNATION OF OLD SUBPARTS.—

(1) Old subparts B and D of part IV of subchapter A of chapter 1 are redesignated as subparts E and F, respectively.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 (as so redesignated) is amended to read as follows:

"Subpart F—Rules for Computing Targeted Jobs Credit".

(3) The table of subparts for such part IV (as amended by subsection (a) of section 851) is amended by adding at the end thereof the following:

"Subpart E. Rules for computing credit for investment in certain depreciable property.

"Subpart F. Rules for computing targeted jobs credit.".

(o) INVESTMENT TAX CREDIT.—

(1) Section 46 (relating to amount of investment tax credit) is amended by striking

out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) AMOUNT OF INVESTMENT CREDIT.—For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(1) the regular percentage,

"(2) in the case of energy property, the energy percentage, and

"(3) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.

"(b) DETERMINATION OF PERCENTAGES.—For purposes of subsection (a)—

"(1) REGULAR PERCENTAGE.—The regular percentage is 10 percent.

"(2) ENERGY PERCENTAGE.—

"(A) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

"Column A—Description	Column B—Percentage	Column C—Period	
		For the period	
In the case of:	The energy percentage is	Beginning on	And ending on
(i) General Rule.—Property not described in any of the following provisions of this column.	10 percent...	Oct. 1, 1978.	Dec. 31, 1982.
(ii) Solar, Wind, or Geothermal Property.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(vii).	A. 10 percent.	Oct. 1, 1978	Dec. 31, 1979
	B. 15 percent	Jan. 1, 1980	Dec. 31, 1985
(iii) Ocean Thermal Property.—Property described in section 48(l)(3)(A)(ix).	15 percent...	Jan. 1, 1980.	Dec. 31, 1985.
(iv) Qualified Hydroelectric Generating Property.—Property described in section 48(l)(2)(A)(vii).	11 percent...	Jan. 1, 1980.	Dec. 31, 1985.
(v) Qualified Intercity Buses.—Property described in section 48(l)(2)(A)(ix).	10 percent...	Jan. 1, 1980.	Dec. 31, 1985.
(vi) Biomass Property.—Property described in section 48(l)(15).	10 percent...	Oct. 1, 1978.	Dec. 31, 1985.
(vii) Chlor-Alkali Electrolytic Cells.—Property described in section 48(l)(5)(M).	10 percent...	Jan. 1, 1980.	Dec. 31, 1982.

"(B) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under subparagraph (A) (as modified by subparagraphs (C) and (D)).

"(C) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in clause (i) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(i) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(D) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in clause (iv) of subparagraph (A) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'.

"(3) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—The regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero.

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(C) DEFINITIONS.—For purpose of this paragraph—

"(i) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(ii) 40-YEAR BUILDING.—The term '40-year building' means a qualified rehabilitated building (other than a certified historic structure) which would meet the requirements of section 48(g)(B) if '40' were substituted for '30' each place it appears in subparagraph (B) thereof.

"(iii) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a qualified rehabilitated building which meets the requirements of section 48(g)(3).".

(2) Subclause (II) of section 46(c)(8)(F)(ii) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "subsection (b)(2)".

(3)(A) Paragraph (1) of section 46(e) is amended—

(i) by striking out "and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(3)", and

(ii) by striking out "such items" and inserting in lieu thereof "such qualified investment".

(B) Paragraph (2) of section 46(e) is amended by striking out "the items described therein" and inserting in lieu thereof "qualified investment".

(4)(A) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "no credit shall be allowed by section 38" and inserting in lieu thereof "no credit determined under subsection (a) shall be allowed by section 38".

(B) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "the credit allowable by section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable by section 38".

(C) Subparagraph (B) of section 46(f)(4) is amended by striking out "the credit allowed by section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowed by section 38".

(5) Paragraph (8) of section 46(f) is amended—

(A) by striking out "the credit allowable under section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable under section 38", and

(B) by striking out "(within the meaning of subsection (a)(7)(C))" and inserting in lieu thereof "(within the meaning of the first sentence of subsection (c)(3)(B))".

(6) Paragraph (2) of section 46(g) is amended by striking out "the limitation of subsection (a)(3)" and inserting in lieu thereof "the limitation of section 38(c)".

(7) Paragraph (1) of section 46(h) is amended—

(A) by striking out "the credit allowable to the organization under section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowable to the organization under section 38", and

(B) by striking out "the limitation contained in subsection (a)(3)" and inserting in lieu thereof "the limitation contained in section 38(c)".

(8) Paragraphs (5) and (6) of section 47(a) are each amended by striking out "under section 46(b)" and inserting in lieu thereof "under section 39".

(9) Subsection (c) of section 47 is amended by striking out "subpart A" and inserting in lieu thereof "subpart A, B, or D".

(10) Subparagraph (B) of section 48(c)(3) is amended by striking out "section 46(b)" and inserting in lieu thereof "section 39".

(11) Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(6)" and inserting in lieu thereof "section 38(c)(3)(B)".

(12) Subsection (f) of section 48 is amended—

(A) by adding "and" at the end of paragraph (1),

(B) striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(13) Paragraph (1) of section 48(l) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "section 46(b)(2)".

(14) Subsection (m) of section 48 is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (b)".

(15) Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1954 (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984.

(16) Subsection (o) of section 48 (defining certain credits) is amended by striking out paragraphs (3), (4), (5), (6), and (7) and by redesignating paragraph (8) as paragraph (3).

(17) Subsection (q) of section 48 is amended—

(A) by striking out "section 46(a)(2)" each place it appears and inserting in lieu thereof "section 46(a)", and

(B) by striking out "section 46(a)(2)(B)" each place it appears and inserting in lieu thereof "section 46(b)(1)".

(18) Subsection (r) of section 48 is amended by striking out "section 381(c)(23)" and

inserting in lieu thereof "section 381(c)(26)".

(p) TARGETED JOBS CREDIT.—

(1) Subsection (a) of section 51 (relating to amount of targeted jobs credit) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year.".

(2) Subsection (g) of section 51 is amended by striking out "the credit provided by section 44B" and inserting in lieu thereof "the targeted jobs credit determined under this subpart".

(3) Section 51 is amended by adding at the end thereof the following new subsection:

"(j) ELECTION TO HAVE TARGETED JOBS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

(4) Subsection (a) of section 52 is amended by striking out "the credit (if any) allowable by section 44B to each such member" and inserting in lieu thereof "the credit (if any) determined under section 51(a) with respect to each such member".

(5) Subsection (b) of section 52 is amended by striking out "the credit (if any) allowable by section 44B" and inserting in lieu thereof "the credit (if any) determined under section 51(a)".

(6) Subsection (c) of section 52 is amended by striking out "credit shall be allowed under section 44B" and inserting in lieu thereof "credit shall be allowed under section 38 for any targeted jobs credit determined under this subpart".

(7) Paragraph (2) of section 52(d) is amended by striking out ", subject to section 53, a credit under section 44B" and inserting in lieu thereof ", subject to section 38(c), a credit under section 38(a)".

(8) Section 53 (relating to limitation based on amount of tax) is hereby repealed.

(9) The table of sections for old subpart D of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 53.

(q) SECTION 55.—

(1) Paragraph (1) of section 55(c) (relating to credits) is amended—

(A) by striking out "subpart A of part IV" and inserting in lieu thereof "subpart A, B, or D of part IV", and

(B) by striking out "section 33(a)" each place it appears and inserting in lieu thereof "section 27(a)".

(2) Clause (i) of section 55(c)(2)(B) is amended by striking out "section 33(a)" and inserting in lieu thereof "section 27(a)".

(3) Paragraph (3) of section 55(c) is amended to read as follows:

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In the case of any taxable year for which a tax is imposed by this section, for purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under section 23, 30 or 38, the amount of the limitation under section 25, 30(g), or 38(c) (as the case may be) shall be deemed to be—

"(A) the amount of such limitation for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(B) the amount of the tax imposed by this section for the taxable year, reduced by—

"(i) the amount of the credit allowable under section 27(a),

"(ii) in the case of the limitation under section 30(g), the amount of such tax taken into account under this subparagraph with respect to the limitation under section 25, and

"(iii) in the case of the limitation under section 38(c), the amount of such tax taken into account under this subparagraph with respect to limitations under sections 25 and 30(g).".

(4) Paragraph (2) of section 55(f) is amended by striking out "allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43)" and inserting in lieu thereof "allowable under subparts A, B, and D of part IV of this subchapter".

(r) TECHNICAL AND CONFORMING AMENDMENTS TO OTHER PROVISIONS.—

(1) SECTION 56.—

(A) Subsection (c) of section 56 (defining regular tax deduction) is amended—

(i) by striking out "subpart A of part IV other than sections 39 and 44G" and inserting in lieu thereof "subparts A, B, and D of part IV", and

(ii) by amending the last sentence to read as follows: "For purposes of the preceding sentence, the amount of the credit determined under section 38 for any taxable year shall be determined without regard to the employee stock ownership credit determined under section 41.".

(B) Subparagraph (A) of section 56(e)(1) is amended by striking out clauses (i), (ii), (iii), and (iv) and inserting in lieu thereof the following:

"(i) section 27 (relating to foreign tax credit), and

"(ii) section 38 (relating to general business credit), exceed".

(2) SECTION 86.—Paragraph (1) of section 86(f) (relating to treatment as pension or annuity for certain purposes) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(3) SECTION 87.—Section 87 (relating to alcohol fuel credit included in income) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes the amount of the alcohol fuel credit determined with respect to the taxpayer for the taxable year under section 40(a).".

(4) SECTION 103.—Clause (iv) of section 103(b)(6)(F) (relating to certain capital expenditures not taken into account) is amended by striking out "section 44F(b)(2)(A)" and inserting in lieu thereof "section 30(b)(2)(A)".

(5) SECTION 108.—Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended to read as follows:

"(B) RESEARCH CREDIT AND GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes of determining the amount allowable as a credit under—

"(i) section 30 (relating to credit for increasing research activities), or

"(ii) section 38 (relating to general business credit).

For purposes of this subparagraph, there shall not be taken into account any portion of a carryover which is attributable to the employee stock ownership credit determined under section 41.".

(6) SECTION 129.—

(A) Paragraph (2) of section 129(b) (relating to earned income limitation) is amended by striking out "section 44A(e)(2)" and inserting in lieu thereof "section 21(d)(2)".

(B) Paragraph (1) of section 129(e) (defining dependent care assistance) is amended by striking out "section 44A(c)(2)" and inserting in lieu thereof "section 21(b)(2)".

(C) Paragraph (2) of section 129(e) (defining earned income) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(7) SECTION 168.—

(A) Clause (i) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(B) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(C) Subparagraph (A) of section 168(i)(4), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV of subchapter A of this chapter" and inserting in lieu thereof "section 38".

(D) Clause (i) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(E) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(8) SECTION 196.—

(A) Section 196 (relating to deduction for certain unused investment credits) is amended to read as follows:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.

"(a) ALLOWANCE OF DEDUCTION.—If any portion of the qualified business credits determined for any taxable year has not, after the application of section 38(c), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to the credit not so allowed shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year for which such credit could, under section 39, have been allowed as a credit.

"(b) TAXPAYER'S DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist before the first taxable year following the last taxable year for which the qualified business credits could, under section 39, have been allowed as a credit, the amount described in subsection (a) (or the proper portion thereof) shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) QUALIFIED BUSINESS CREDITS.—For purposes of this section, the term 'qualified business credits' means—

"(1) the investment credit determined under section 46(a) (but only to the extent attributable to property the basis of which is reduced by section 48(q)),

"(2) the targeted jobs credit determined under section 51(a), and

"(3) the alcohol fuels credit determined under section 40(a).

"(d) SPECIAL RULE FOR INVESTMENT TAX CREDIT.—In the case of the investment credit determined under section 46(a) (other than a credit to which section 48(q)(3) applies), subsection (a) shall be applied by substituting 'an amount equal to 50 percent of' for 'an amount equal to'.".

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 196 and inserting in lieu thereof:

"Sec. 196. Deduction for certain unused business credits.".

(9) SECTION 213.—Subsection (e) of section 213 (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "section 44A" and inserting in lieu thereof "section 21".

(10) SECTION 280C.—

(A) Section 280C (relating to certain expenses for which credits are allowable) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(B) Subsection (a) of section 280C (as so redesignated) is amended—

(i) by striking out the first sentence and inserting in lieu thereof the following: "No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined for the taxable year under section 51(a).", and

(ii) by striking out "SECTION 44B CREDIT" in the subsection heading and inserting in lieu thereof "TARGETED JOBS CREDIT".

(C) Subsection (b) of section 280C (as so redesignated) is amended by striking out "44H" each place it appears and inserting in lieu thereof "29".

(D) Paragraph (3) of section 280C(b) (as so redesignated) is amended—

(i) by striking out "section 44F(f)(5)" and inserting in lieu thereof "section 30(f)(5)",

(ii) by striking out "section 44F(f)(1)(B)" and inserting in lieu thereof "section 30(f)(1)(B)",

(iii) by striking out "section 44F(f)(1)" and inserting in lieu thereof "section 30(f)(1)".

(11) SECTION 381.—Subsection (c) of section 381 is amended—

(A) by striking out paragraphs (23), (24), (26), (27), and (30),

(B) by redesignating paragraphs (25), (28), and (29) as paragraphs (23), (24), and (25), respectively,

(C) by striking out "44F" each place it appears in paragraph (25) (as so redesignated) and inserting in lieu thereof "30", and

(D) by adding at the end thereof the following new paragraph:

"(26) CREDIT UNDER SECTION 38.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation.".

(12) SECTION 383.—

(A) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation which can otherwise be carried forward under section 39, to any unused credit of the corporation which could otherwise be carried forward under section 30(g)(2), to any excess foreign taxes of the corporation which could otherwise be carried forward under section 904(c), and to any net capital loss of the corporation which can otherwise be carried forward under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.".

(B) Section 383 (as amended by the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation under section 39, to any unused credit of the corporation under section 30(g)(2), to any excess foreign taxes of the corporation under section 904(c), and to any net capital loss of the corporation under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES.".

(C) The table of sections for part V of subchapter C of chapter 1 is amended by striking out the item relating to section 383 and inserting in lieu thereof the following:

"Sec. 383. Special limitations on unused business credits, research credits, foreign taxes, and capital losses.".

(13) Paragraph (21) of section 401(a) is amended by striking out "allowable—" and all that follows and inserting in lieu thereof "allowable under section 41 if the employer made the transfer described in section 41(c)(1)(B).".

(14) SECTION 404.—Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is amended to read as follows:

"(i) DEDUCTIBILITY OF UNUSED PORTIONS OF EMPLOYEE STOCK OWNERSHIP CREDIT.—

"(1) UNUSED CREDIT CARRYOVERS.—If any portion of the employee stock ownership credit determined under section 41 for any taxable year has not, after the application of section 38(c), been allowed under section 38 for any taxable year, such portion shall be allowed as a deduction (without regard to any limitations provided under this section) for the last taxable year to which such portion could have been allowed as a credit under section 39.

"(2) REDUCTIONS IN CREDIT.—There shall be allowed as a deduction (subject to the limitations provided under this section) an amount equal to any reduction of the credit allowed under section 41 resulting from a final determination of such credit to the extent such reduction is not taken into account under section 41(c)(3).".

(15) SECTION 409A.—

(A) Section 409A (relating to qualifications for tax credit employee stock ownership plans), is amended by striking out "44G" each place it appears in subsections (b), (g), (i), (m), and (n) and inserting in lieu thereof "41".

(B) Paragraph (1) of section 409A(b) is amended by striking out "48(n)(1)(A) or".

(C) Subsection (g) of section 409A is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the references to section 48(n)(1) and the employee plan credit shall refer to such section and credit as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984.".

(D) Subparagraph (A) of section 409A(i)(1) is amended by striking out "48(n)(1) or".

(E) Subsection (k) of section 409A is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the reference to the matching employee plan credit shall refer to such credit as in effect before the enactment of the Tax Law Simplification and Improvement Act of 1984.".

(16) SECTION 527(g)(1).—Paragraph (1) of section 527(g) (relating to treatment of newsletter funds) is amended by striking out "section 41(c)(2)" and inserting in lieu thereof "section 24(c)(2)".

(17) SECTION 642(a)(2).—Paragraph (2) of section 642(a) (relating to credit for political contributions) is amended by striking out "section 41" and inserting in lieu thereof "section 24".

(18) SECTION 691(b).—Subsection (b) of section 691 (relating to allowance of deductions and credit) is amended by striking out "section 33" each place it appears and inserting in lieu thereof "section 27".

(19) SECTIONS 874(a) AND 882(c)(2).—Sections 874(a) and 882(c)(2) are each amended—

(A) by striking out "32" and inserting in lieu thereof "33", and

(B) by striking out "section 39" and inserting in lieu thereof "section 34".

(20) SECTION 901(a).—Subsection (a) of section 901 (relating to allowance of foreign tax credit) is amended by striking out the last sentence and inserting in lieu thereof the following: "The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 25(b)."

(21) SECTION 904(g).—Subsection (g) of section 904 (relating to limitation on foreign tax credit) is amended to read as follows:

"(g) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.".

(22) SECTION 936.—

(A) Clause (i)(I)(a) of section 936(h)(5)(C) is amended by striking out "section 44F(b)" and inserting in lieu thereof "section 30(b)".

(B) Clause (i)(IV)(c) of section 936(h)(5)(C) is amended—

(i) by striking out "section 44F" and inserting in lieu thereof "section 30", and

(ii) by striking out "section 44F(f)" and inserting in lieu thereof "section 30(f)".

(23) SECTION 1016(a)(21).—Paragraph (21) of section 1016(a) (relating to adjustments to basis) is amended—

(A) by striking out "section 44C(e)" and inserting in lieu thereof "section 23(e)", and

(B) by striking out "section 44C" and inserting in lieu thereof "section 23".

(24) SECTION 1033(g)(3)(A).—Subparagraph (A) of section 1033(g)(3) (relating to

election to treat outdoor advertising displays as real property) is amended by striking out "the credit allowed by section 38 (relating to investment in certain depreciable property)" and inserting in lieu thereof "the investment credit determined under section 46(a)".

(25) SECTION 1351(i).—Subsection (i) of section 1351 (relating to adjustments for succeeding years) is amended—

(A) by striking out "section 33" and inserting in lieu thereof "section 27", and

(B) by striking out "section 38 (relating to investment credit)" and inserting in lieu thereof "section 38 (relating to general business credit)".

(26) SECTION 1366(f).—Paragraph (1) of section 1366(f) (relating to special rules) is amended by striking out "section 39" each place it appears and inserting in lieu thereof "section 34".

(27) SECTION 1374(b).—Subsection (b) of section 1374 (relating to amount of tax imposed on certain capital gains) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(28) SECTION 1375(c).—Paragraph (1) of section 1375(c) (relating to disallowance of credit) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(29) SECTION 1451.—

(A) Chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds) is amended by striking out subchapter B and by redesignating subchapter C as subchapter B.

(B) The table of subchapters for chapter 3 is amended by striking out the items relating to subchapters B and C and inserting in lieu thereof the following:

"SUBCHAPTER B. Application of withholding provisions.".

(C) The heading of chapter 3 is amended by striking out "AND TAX-FREE COVENANT BONDS".

(D) The table of chapters for subtitle A is amended by striking out "and tax-free covenant bonds" in the item relating to chapter 3.

(E) Section 12 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(F) Subsection (f) of section 164 (as in effect before its redesignation by the Social Security Amendments of 1983) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(G) Subsection (a) of section 1441 is amended by striking out "except in the cases provided for in section 1451 and".

(H) Paragraph (3) of section 1441(c) is amended by striking out "section 1451" and inserting in lieu thereof "section 1451 (as in effect before its repeal by the Tax Credit Simplification Act of 1984)".

(I) Subsection (a) of section 1442 is amended—

(i) by striking out "or section 1451", and

(ii) by striking out "; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein".

(J) Paragraph (2) of section 6049(b) (relating to amounts not treated as interest) is amended—

(i) by adding "and" at the end of subparagraph (C),

(ii) by striking out ", and" at the end of subparagraph (D) and inserting in lieu thereof a period, and

(iii) by striking out subparagraph (E).

(K) Paragraph (16) of section 7701(a) is amended by striking out "1451,".

(30) SECTION 6096(b).—Subsection (b) of section 6096 (defining income tax liability) is amended by striking out "allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H" and inserting in lieu thereof "allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof)".

(31) SECTION 6201(a)(4).—Paragraph (4) of section 6201(a) (relating to erroneous credit under section 39 or 43) is amended—

(A) by striking out "section 39" and inserting in lieu thereof "section 34",

(B) by striking out "section 43" and inserting in lieu thereof "section 32", and

(C) by striking out "SECTION 39 OR 43" in the paragraph heading and inserting in lieu thereof "SECTION 32 OR 34".

(32) SECTION 6211(b).—

(A) Paragraph (1) of section 6211(b) is amended by striking out "without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451" and inserting in lieu thereof "without regard to the credit under section 33".

(B) Paragraph (4) of section 6211(b) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(33) SECTION 6213(h)(3).—Paragraph (3) of section 6213(h) is amended by striking out "section 39" and inserting in lieu thereof "section 32 or 34".

(34) SECTION 6362(c)(1).—Paragraph (1) of section 6362(c) (relating to qualified resident tax which is a percentage of the Federal tax) is amended by striking out "sections 31 and 39" and inserting in lieu thereof "sections 31 and 34".

(35) SECTION 6401(b).—Subsection (b) of section 6401 (relating to excessive credits treated as overpayments) is amended to read as follows:

"(b) EXCESSIVE CREDITS.—

"(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, and D of such part IV), the amount of such excess shall be considered an overpayment.

"(2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year.".

(36) SECTION 6411.—

(A) So much of subsection (a) of section 6411 as precedes paragraph (2) thereof (relating to tentative carryback and refund adjustments) is amended to read as follows:

"(a) APPLICATION FOR ADJUSTMENT.—A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, by a research credit carryback provided in section 30(g)(2) or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a research credit carryback or a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year (or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

"(1) The amount of the net operating loss, net capital loss, unused research credit, or unused business credit;".

(B) Subsections (b) and (c) of section 6411 are each amended by striking out "unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused research credit, or unused business credit".

(37) SECTIONS 6420(g)(2), ETC.—Sections 6420(g)(2), 6421(i)(3), and 6427(i)(3) are each amended by striking out "section 39" and inserting in lieu thereof "section 34".

(38) SECTION 6501(p).—Section 6501 is amended by striking out subsection (p) and by redesignating subsection (q) as subsection (p).

(39) SECTION 6511(d)(4)(C).—Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended to read as follows:

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any business carryback under section 39 and any research credit carryback under section 30(g)(2).".

(40) SECTION 7871.—Subparagraph (A) of section 7871(a)(6) is amended by striking out "section 41(c)(4)" and inserting in lieu thereof "section 24(c)(4)".

(41) SECTION 9502(d).—Paragraph (3) of section 9502(d) (relating to transfers from the Airport and Airway Trust Fund on account of certain section 39 credits) is amended—

(A) by striking out "section 39" and inserting in lieu thereof "section 34", and

(B) by striking out "SECTION 39 CREDITS" in the heading and inserting in lieu thereof "SECTION 34 CREDITS".

(42) SECTION 9503(c).—Clause (ii) of section 9503(c)(2)(A) (relating to transfers from the Highway Trust Fund for certain repayments and credits) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

SEC. 855. ENERGY CREDITS.

(a) BUSINESS ENERGY TAX CREDITS.—

(1) EXTENSION OF RENEWABLE ENERGY, OCEAN THERMAL, AND BIOMASS CREDITS THROUGH 1988.—Clauses (ii) (relating to solar, wind, or geothermal property), (iii) (relating to ocean thermal property), and (vi) (relating to biomass property) of section 46(b)(2)(A) (relating to amount of invest-

ment tax credit) (as amended by section 851 of this Act) are each further amended by striking out "Dec. 31, 1985." and inserting in lieu thereof "Dec. 31, 1988.".

(2) GEOTHERMAL PROPERTY.—

(A) WATER TEMPERATURE THRESHOLD REDUCED.—Paragraph (3) of section 613(e) (defining geothermal deposit) is amended by inserting immediately before the period at the end of the first sentence, a comma and the following: "having a temperature which equals or exceeds 40 degrees Celsius (104 degrees Fahrenheit) as measured at the wellhead or, in the case of a natural hot spring (where no well is drilled), at the intake to the distribution system".

(B) ALLOCATION RULES.—Paragraph (3) of section 48(l) (relating to energy property) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR GEOTHERMAL EQUIPMENT.—For purposes of subparagraph (A)(viii), with respect to any equipment in which the percentage of the geothermal energy to be used by such equipment—

"(i) is at least 50 percent, such equipment shall be treated as section 38 property only to the extent of the portion of the qualified investment equal to such percentage, and

"(ii) is less than 50 percent, such equipment shall not be treated as section 38 property.".

(3) BIOMASS PROPERTY USE OF QUALIFIED FUEL.—

(A) ADDITIONAL QUALIFIED FUEL.—Subparagraph (C) of section 48(l)(15) (defining biomass property) is amended—

(i) by striking out "and" at the end of clause (i),

(ii) by redesignating clause (ii) as clause (iii), and

(iii) by inserting after clause (i) the following new clause:

"(ii) methane-containing gas for fuel or electricity, produced by anaerobic digestion from nonfossil waste materials at farms or other agricultural facilities, and at facilities for the first processing of agricultural products, and".

(B) EXCLUSION OF CERTAIN PROPERTY.—Section 48(l)(15) (defining biomass property) is amended by adding a new subparagraph (D) to read as follows:

"(D) EXCLUSION OF CERTAIN PROPERTY.—After December 31, 1985, the term 'biomass property' does not include the property of a taxpayer in a trade or business which is included in SIC24 (the forest products industry) or SIC26 (the paper products industry) as published and defined pursuant to section 3504(d)(3) of the Paperwork Reduction Act of 1980 (as in effect on the date of the enactment of the Deficit Reduction Tax Act of 1984).".

(4) AFFIRMATIVE COMMITMENTS FOR SYNTHETIC FUELS PROJECTS EXTENDED.—Subparagraph (C) of section 46(b)(2) (relating to energy percentage) (as so amended) is further amended—

(A) by striking out " 'December 31, 1990' " and inserting in lieu thereof " 'December 31, 1992' ",

(B) by striking out "January 1, 1983" in clause (i) and inserting in lieu thereof "January 1, 1987", and

(C) by striking out "January 1, 1986" in clause (ii) and inserting in lieu thereof "January 1, 1990".

(5) NEW AFFIRMATIVE COMMITMENTS FOR SOLAR, WIND, GEOTHERMAL, AND OCEAN THERMAL PROJECTS.—Paragraph (2) of section 46(b) (relating to energy percentage) is further amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) LONGER PERIOD FOR SOLAR, WIND, GEOTHERMAL, AND OCEAN THERMAL PROJECTS.—For the purpose of applying the energy percentage contained in clauses (ii) and (iii) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'June 30, 1989' shall be substituted for 'December 31, 1988' if—

"(i) before January 1, 1988, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before July 1, 1989, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.".

(6) DEFINITION OF SHALE OIL PROPERTY WHICH IS TREATED AS ENERGY PROPERTY.—Subsection (b) of section 104 of the Miscellaneous Revenue Act of 1982 (relating to treatment of certain shale oil property as energy property) is amended by striking out "and before January 1, 1983,".

(7) TAR SANDS PROPERTY.—

(A) IN GENERAL.—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(i) by striking out "or" at the end of clause (viii),

(ii) by adding "or" at the end of clause (ix), and

(iii) by adding at the end thereof the following new clause:

"(x) tar sands equipment,".

(B) TAR SANDS EQUIPMENT.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(18) TAR SANDS EQUIPMENT.—The term 'tar sands equipment' means that equipment which is necessary and integral to the mining, quarrying, or extraction of tar sands or the production or extraction of oil from tar sands including equipment used for cracking, coking, hydrogenation, or for similar processes but not including equipment used for refining.".

(b) RESIDENTIAL ENERGY TAX CREDITS.—

(1) REPEAL OF ENERGY CONSERVATION CREDIT AND EXTENSION OF RENEWABLE ENERGY CREDIT.—Subsection (f) of section 23 (relating to residential energy credit) (as redesignated by section 851 of this Act) is amended to read as follows:

"(f) TERMINATION.—

"(1) ENERGY CONSERVATION.—This section shall not apply to qualified energy conservation expenditures made after the date of the enactment of the Deficit Reduction Tax Act of 1984.

"(2) RENEWABLE ENERGY SOURCE.—This section shall not apply to qualified renewable energy source expenditures made after December 31, 1987.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 23(b)(6) (relating to carryover of unused credit) is amended to read as follows:

"(B) LIMITATION ON FUTURE CARRYOVERS.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987 (December 31, 1989 in the case of qualified renewable energy source expenditures).".

(c) EFFECTIVE DATE.—Under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954, the amendments made by this section shall apply to periods beginning after the date of the enactment of this Act.

SEC. 856. THREE-YEAR EXTENSION OF TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (3) of section 51(c) (defining wages qualifying for targeted jobs credit) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1987".

(b) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983 and 1984" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, 1986, and 1987".

SEC. 857. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years.

(b) TAX-FREE COVENANT BONDS.—The amendments made by subsections (i) and (r)(29) of section 869 shall not apply with respect to obligations issued before January 1, 1984.

(c) SPECIAL RULE FOR EMPLOYEE PLAN CREDITS.—In the case of any employee plan credit (within the meaning of section 48(o)(3) of the Internal Revenue Code of 1954, without regard to the amendments made by this Act) allowable under section 38 of such Code, such amendments shall not apply to any credit for a taxable year beginning after December 31, 1982, arising out of a carryover of such credit which is attributable to a period before January 1, 1983.

Subtitle H—Capital Gains and Losses

SEC. 858. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAINS.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(14) Paragraphs (11) and (12) of section 1223 (relating to holding period of property).

(15) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

(19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.—Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 6 months before such cutting", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—Section 1232(a)(4)(A) (relating to certain short-term government obligations), as in effect before the amendments made by section 231(c)(4) of the Tax Equity and Fiscal Responsibility Act of 1982, and section 1232(a)(3)(A), as in effect after such amendments, are each amended by striking out "held less than 1 year".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to property acquired after February 29, 1984.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b) shall take effect on March 1, 1984.

SEC. 859. DECREASE IN AMOUNT OF ORDINARY INCOME AGAINST WHICH CAPITAL LOSS MAY BE OFFSET.

(a) GENERAL RULE.—Subparagraph (B) of section 1211(b)(1) (relating to limitation on capital losses for taxpayers other than corporations) is amended by striking out "the applicable amount" and inserting in lieu thereof "$1,000, ($500 in the case of a married individual filing a separate return)".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 1211 is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(c) REPEAL OF SPECIAL RULE FOR PRE-1970 LOSSES.—Paragraph (3) of section 1212(b) (relating to transitional rule for taxpayers other than corporations) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

Subtitle I—Miscellaneous

SEC. 860. ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.

(a) IN GENERAL.—Paragraph (1) of section 48(g) (relating to qualified rehabilitated buildings) is amended by adding at the end thereof the following new subparagraph:

"(E) ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.—The requirement in clause (iii) of subparagraph (A) shall be deemed to be satisfied if in the rehabilitation process—

"(i) 50 percent or more of the existing external walls of the building are retained in place as external walls,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(iii) 75 percent or more of the existing internal structural framework of such building is retained in place.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property that is attributable to expenditures incurred after December 31, 1983, in taxable years ending after such date.

SEC. 861. TAX TREATMENT OF REGULATED INVESTMENT COMPANIES.

(a) PERSONAL HOLDING COMPANIES PERMITTED TO BE REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subsection (a) of section 851 (defining regulated investment company) is amended by striking out "(other than a personal holding company as defined in section 542)".

(2) SPECIAL RULE FOR RATE OF TAX.—Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by adding at the end thereof the following new sentence: "In the case of a regulated investment company which is a personal holding company (as defined in section 542), the tax shall be computed at the highest rate of tax specified in section 11(b).".

(3) REQUIREMENT THAT INVESTMENT COMPANY HAVE NO EARNINGS AND PROFITS ACCUMULATED IN YEAR FOR WHICH IT WAS NOT A REGULATED INVESTMENT COMPANY.—Subsection (a) of section 852 (relating to requirements applicable to regulated investment companies) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) either—

"(A) the provisions of this part applied to the investment company for all taxable years ending on or after November 8, 1983, or

"(B) as of the close of the taxable year, the investment company has no earnings and profits accumulated in any taxable year to which the provisions of this part (or the corresponding provisions of prior law) did not apply to it.".

(4) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—Section 852 is amended by adding at the end thereof the following new subsection:

"(e) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—

"(1) IN GENERAL.—If—

"(A) there is a determination that the provisions of this part do not apply to an investment company for any taxable year (hereinafter in this subsection referred to as the 'non-RIC year'), and

"(B) such investment company meets the distribution requirements of paragraph (2) with respect to the non-RIC year,

for purposes of applying subsection (a)(3) to subsequent taxable years, the provisions of this part shall be treated as applying to such investment company for the non-RIC year.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The distribution requirements of this paragraph are met with respect to any non-RIC year if, within the 90-day period beginning on the date of the determination, the investment company makes 1 or more qualified designated distributions and the amount of such distributions is not less than the excess of—

"(i) the portion of the accumulated earnings and profits of the investment company (as of the date of the determination) which are attributable to the non-RIC year, over

"(ii) any interest payable under paragraph (3).

"(B) QUALIFIED DESIGNATED DISTRIBUTION.—For purposes of this paragraph, the term 'qualified designated distribution' means any distribution made by the investment company if—

"(i) section 301 applies to such distribution, and

"(ii) such distribution is designated (at such time and in such manner as the Secretary shall by regulations prescribe) as being taken into account under this paragraph with respect to the non-RIC year.

"(C) EFFECT ON DIVIDENDS PAID DEDUCTION.—Any qualified designated distribution shall not be included in the amount of dividends paid for purposes of computing the dividends paid deduction for any taxable year.

"(3) INTEREST CHARGE.—

"(A) IN GENERAL.—If paragraph (1) applies to any non-RIC year of an investment company, such investment company shall pay interest at the annual rate established under section 6621—

"(i) on an amount equal to 50 percent of the amount referred to in paragraph (2)(A)(i),

"(ii) for the period—

"(I) which begins on the last day prescribed for payment of the tax imposed for the non-RIC year (determined without regard to extensions), and

"(II) which ends on the date the determination is made.

"(B) COORDINATION WITH SUBTITLE F.—Any interest payable under subparagraph (A) may be assessed and collected at any time during the period during which any tax im-

posed for the taxable year in which the determination is made may be assessed and collected.

"(4) PROVISION NOT TO APPLY IN THE CASE OF FRAUD.—The provisions of this subsection shall not apply if the determination contains a finding that the failure to meet any requirement of this part was due to fraud with intent to evade tax.

"(5) DETERMINATION.—For purposes of this subsection, the term 'determination' has the meaning given to such term by section 860(e). Such term also includes a determination by the investment company filed with the Secretary that the provisions of this part do not apply to the investment company for a taxable year.".

(5) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(B) INVESTMENT COMPANIES WHICH WERE REGULATED INVESTMENT COMPANIES FOR YEARS ENDING BEFORE NOVEMBER 8, 1983.—In the case of any investment company to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for any taxable year ending before November 8, 1983, for purposes of section 852(a)(3)(B) of the Internal Revenue Code of 1954 (as amended by this subsection), no earnings and profits accumulated in any taxable year ending before January 1, 1984, shall be taken into account.

(C) INVESTMENT COMPANIES BEGINNING BUSINESS IN 1983.—In the case of an investment company which began business in 1983 (and was not a successor corporation), earnings and profits accumulated during its first taxable year shall not be taken into account for purposes of section 852(a)(3)(B) of such Code (as so amended).

(b) SHORT-TERM OBLIGATIONS ISSUED ON A DISCOUNT BASIS.—

(1) IN GENERAL.—Paragraph (2) of section 852(b) (defining investment company taxable income) is amended by adding at the end thereof the following new subparagraph:

"(F) The taxable income shall be computed without regard to section 454(b) (relating to short-term obligations issued on a discount basis) if the company so elects in a manner prescribed by the Secretary.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

SEC. 862. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

Section 216 is amended—

(1) by striking out "an individual" in subsection (b)(2) and inserting in lieu thereof "a person",

(2) by striking out "such individual" in subsection (b)(2) and inserting in lieu thereof "such person",

(3) by amending paragraph (5) of subsection (b) to read as follows:

"(5) ENTITLEMENT OF OCCUPANCY.—If a person acquires stock of a cooperative housing corporation by operation of law, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person or his nominee may not occupy the house or apartment without the prior approval of such corporation. If a person other than an individual acquires stock of a cooperative housing corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person's nominee may not occupy the house or apartment without the prior approval of such corporation.",

(4) by amending paragraph (6) of subsection (b) to read as follows:

"(6) ORIGINAL SELLER.—If the original seller acquires any stock of the cooperative housing corporation from the corporation not later than one year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the corporation the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation. For purposes of this paragraph, the term "original seller" means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).",

(5) by amending subsection (c) to read as follows:

"(c) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—

"(1) IN GENERAL.—So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a). The preceding sentence shall not be construed to limit or deny a deduction for depreciation under 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.

"(2) SUSPENSION OF DEPRECIATION DEDUCTIONS.—A tenant-stockholder shall be allowed a depreciation deduction in a taxable year for the portion of his stock allocable to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) only to the extent of the portion of the adjusted basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year in which such deduction was incurred. A tenant-stockholder's depreciation deduction in excess of the basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year will not be allowed for that year However, any depreciation deduction so disallowed shall be allowed as a depreciation deduction at the end of the first succeeding taxable year of the tenant-stockholder, and subsequent taxable years of the tenant-stockholder, to the extent that the tenant-stockholder's adjusted basis for his stock allocable to such depreciable property at the end of any such year exceeds zero (before reduction for such depreciation deduction for such year).", and

(6) by adding at the end thereof a new subsection (d) to read as follows:

"(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE CORPORATION.—No deduction shall be allowed to a stockholder in a cooperative housing corporation for any amount paid or accrued to such corporation within the taxable year (in excess of the stockholder's proportionate share of the items described in subsections (a)(1) and (a)(2)) to the extent that, under regulations prescribed by the Secretary, such amount is properly allocable to amounts paid or incurred at any time by the corporation that are chargeable to the corporation's capital account. The stockholder's adjusted basis for his stock in the corporation shall be increased by the amount of such disallowance.".

SEC. 863. EXCLUSION OF CERTAIN SERVICES FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

Subsection (b) of section 822 of the Economic Recovery Tax Act of 1981 (26 U.S.C. 3306 note) is amended by striking out "and before January 1, 1983" and inserting in lieu thereof "and before January 1, 1985".

SEC. 864. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.

(a) EXTENSION.—

(1) IN GENERAL.—Section 5 of the Payment-in-Kind Tax Treatment Act of 1983 (relating to definitions and special rules) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.—In the case of wheat—

"(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

"(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1).".

(2) DEFINITION OF CROP YEAR.—Paragraph (2) of section 5(a) of such Act is amended to read as follows:

"(2) CROP YEAR.—The term '1983 crop year' means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term '1984 crop year' means the crop year for wheat the planting and harvesting period for which occurs during 1984.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 as amended by subsection (a)).

(2) INCOME TAX TREATMENT NOT TO APPLY FOR 1984 CROP YEAR TO THE EXTENT PAYMENTS DETERMINED TO BE ILLEGAL.—

(A) IN GENERAL.—If it is determined in a judicial proceeding brought under subparagraph (B) that the $50,000 limitation of section 1101(1) of the Agriculture and Food Act of 1981 applies to payments-in-kind under the Payment-in-Kind (PIK) programs, section 2(a) of the Payment-in-Kind Tax Treatment Act of 1983 shall apply to commodities received for the 1984 crop year only to the extent that the receipt of such commodities is legal under such determination.

(B) COMPTROLLER GENERAL TO BRING ACTION FOR DECLARATORY JUDGMENT.—

(i) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall (and notwithstanding any other provision of law is hereby authorized to) bring an action in the name of the United States against the Secretary of Agriculture in the United States District Court for the District of Columbia for a declaration with respect to the issue of whether the $50,000 limitation of section 1101(1) of the Agriculture and Food Act of 1981 applies to payments-in-kind under the Payment-in-Kind (PIK) programs.

(ii) PRIORITY.—To the maximum extent possible, the United States District Court for the District of Columbia shall give priority to the action brought under this subparagraph.

(C) DECLARATION ONLY TO APPLY FOR INCOME TAX TREATMENT FOR 1984 CROP YEAR.—Nothing in any declaration in a proceeding brought under subparagraph (B) shall affect—

(i) the tax treatment under the Payment-in-Kind Tax Treatment Act of 1983 for the 1983 crop year,

(ii) the tax treatment under such Act for the 1984 crop year other than the tax treatment under section 2(a) of such Act, or

(iii) the tax treatment of a cooperative with respect to commodities received on behalf of another person.

SEC. 865. ACQUISITION INDEBTEDNESS OF CERTAIN EDUCATIONAL INSTITUTIONS AND CERTAIN CORPORATIONS MANAGING PROPERTY FOR TAX-EXEMPT ORGANIZATIONS; TAX-EXEMPTION FOR SUCH CORPORATIONS.

(a) ACQUISITION INDEBTEDNESS.—Paragraph (9) of section 514(c) (relating to unrelated debt-financed income) is amended to read as follows:

"(9) REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'acquisition indebtedness' does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property.

"(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

"(i) the acquisition price is not a fixed amount determined as of the date of acquisition;

"(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, ncome, or profits derived from such real property;

"(iii) the real property is at any time after the acquisition leased by the qualified organization to the person selling such property to such organization or to any person who bears a relationship described in section 267(b) to such person;

"(iv) the real property is acquired by a qualified trust from, or is at any time after the acquisition leased by such trust to, any person who—

"(I) bears a relationship which is described in subparagraph (C), (E), or (G) of section 4975(e)(2) to any plan with respect to which such trust was formed, or

"(II) bears a relationship which is described in subparagraph (F) or (H) of section 4975(e)(2) to any person described in subclause (I);

"(v) the real property is acquired by a title holding company from, or is at any time after the acquisition leased by such foundation to, any person described in section 4946 (a);

"(vi) any person described in clause (iii), (iv), or (v) provides the qualified organization with financing in connection with the acquisition; or

"(vii) the real property acquired by the qualified organization is, at any time after the acquisition, property owned by a partnership and at least one of the partners of such partnership is not a qualified organization.

"(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means—

"(i) an organization described in section 170(b)(1)(A) (ii) and its affiliated support organizations described in section 509(a);

"(ii) an organization described in section 501(c)(24); or

"(iii) any trust which constitutes a qualified trust under section 401.".

(b) TAX-EXEMPT STATUS OF CORPORATIONS ACQUIRING AND MANAGING PROPERTY FOR OTHER TAX-EXEMPT ORGANIZATIONS.—Section 501(c) (relating to the list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(24)(A) Any corporation or trust—

"(i) which is organized for the exclusive purposes of—

"(I) acquiring and holding title to property,

"(II) collecting income from such property, and

"(III) remitting the entire amount of income from such property (less expenses) to one or more organizations described in subparagraph (C), and

"(ii) none of the officers, directors, or trustees of which—

"(I) provides investment advice or similar services to such corporation or trust, or

"(II) is a partner, director, officer, or trustee of (or person holding any similar position in) any organization (including a brokerage house) that provides such services to such corporation or trust.

"(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by one or more organizations described in subparagraph (C).

"(C) An organization is described in this subparagraph if—

"(i) such organization is—

"(I) a qualified pension, profit sharing, or stock bonus plan which meets the requirements of section 401(a),

"(II) a governmental plan (within the meaning of section 414(d)),

"(III) the United States, any State or political subdivision thereof, or any agency or instrumentality of any such governmental unit, or

"(IV) any organization described in paragraph (3).".

(c) EFFECTIVE DATES.—

(1) ACQUISITION INDEBTEDNESS.—The amendment made by subsection (a) shall apply with respect to indebtedness incurred after the date of enactment of this Act.

(2) TAX-EXEMPTION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1984.

SEC. 866. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INDEMNITY ASSOCIATIONS.

(a) IN GENERAL.—Section 821 (relating to mutual insurance companies) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INDEMNITY ASSOCIATIONS.—

"(1) TREATMENT OF ASSOCIATIONS.—

"(A) CAPITAL CONTRIBUTIONS.—There shall not be included in the gross income of any eligible physicians' and surgeons' mutual protection and indemnity association any initial payment made during any taxable year to such association by a member joining such association which—

"(i) does not release such member from obligations to pay current or future dues, assessments, or premiums; and

"(ii) is a condition precedent to receiving benefits of membership.

Such initial payment shall be included in gross income for such taxable year with respect to any member of such association who elects to deduct such payment pursuant to paragraph (2).

"(B) RETURN OF CONTRIBUTIONS.—

"(i) IN GENERAL.—The repayment to any member of any amount of any payment excluded under subparagraph (A) shall not be treated as a policyholder dividend, and is not deductible by the association.

"(ii) SOURCE OF RETURNS.—Except in the case of the termination of a member's interest in the association, any amount distributed to any member shall be treated as paid out of surplus in excess of amounts excluded under subparagraph (A).

"(2) DEDUCTION ELECTION FOR MEMBERS OF ELIGIBLE ASSOCIATIONS.—

"(A) ELECTION TO TREAT PAYMENT AS TRADE OR BUSINESS EXPENSES.—To the extent not otherwise allowable under this title, any member of any eligible association may elect, with notice to and with the consent of such association with respect to such election, to treat any initial payment made during a taxable year to such association as an ordinary and necessary expense incurred in connection with a trade or business for purposes of the deduction allowable under section 162, to the extent such payment does not exceed the amount which would be payable to an independent insurance company for similar insurance coverage (as determined by the Secretary), and further reduced by any annual dues, assessments, or premiums paid during such taxable year. Any excess amount not allowed as a deduction for the taxable year in which such payment was made pursuant to the limitation contained in the preceding sentence shall, subject to such limitation, be allowable as a deduction in any of the 5 succeeding taxable years, in order of time, to the extent not previously allowed as a deduction under this sentence.

"(B) TIME OF ELECTION.—The election under subparagraph (A) shall be made upon joining the association, in a manner prescribed by the Secretary.

"(C) REFUNDS OF INITIAL PAYMENTS.—Any amount attributable to any initial payment to such association described in paragraph (1) which is later refunded for any reason shall be included in the gross income of the recipient in the taxable year received, to the extent a deduction for such payment was allowed. Any amount refunded in excess of such payment shall be included in gross income except to the extent otherwise excluded from income by this title.

"(3) ELIGIBLE ASSOCIATIONS.—The terms 'eligible physicians' and surgeons' mutual protection and indemnity association' and 'eligible association' mean any mutual protection and indemnity association that provides only medical malpractice liability protection for its members and which was operative and was providing such protection under the laws of any State prior to January 1, 1984.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to payments made to and receipts of physicians' and surgeons' mutual protection and indemnity associations, and refunds of payments by such associations, after the date of the enact-

ment of this Act, in taxable years ending after such date.

(2) RETROACTIVE EFFECT OF THIS SECTION.—A member of any association who in any taxable year ending before the date of the enactment of this Act made payments to such association for which deductions were not initially allowed may, to the extent and in the manner provided by the Internal Revenue Code of 1954, amend applicable earlier tax returns to reflect the deductions authorized by this section, if the association to which such payment was made consents to such treatment and is able to and does so amend its return for the appropriate earlier year to include such amount in its gross income.

SEC. 867. SALE-LEASEBACKS OF PRINCIPAL RESIDENCES.

(a) DEPRECIATION IN SALE-LEASEBACK TRANSACTIONS.—Section 167 (relating to depreciation) is amended by inserting after subsection (h) the following new subsection:

"(i) SALE-LEASEBACK TRANSACTIONS.—

"(1) IN GENERAL.—In the case of property involved in a sale-leaseback transaction, the purchaser-lessor shall be recognized as the absolute owner of the property, and the deduction shall be allowed to the purchaser-lessor and computed under the straight-line method using a useful life of 40 years.

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

"(A) SALE-LEASEBACK.—The term 'sale-leaseback' shall include a transaction in which—

"(i) the seller-lessee—

"(I) has attained the age of 55 before the date of such transaction,

"(II) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 3 years or more,

"(III) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

"(IV) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

"(ii) the purchaser-lessor—

"(I) is a person,

"(II) is not a related party (as defined in section 267 (b)) or a tax shelter,

"(III) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

"(IV) pays a purchase price for the property that is the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

"(B) OCCUPANCY RIGHTS.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly-held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly-held occupancy rights).

"(C) FAIR RENTAL.—The term 'fair rental' shall include a rental for any subsequent year which equals or exceeds the fair market rental for the first year of a sale-leaseback transaction, but which does not exceed a fair rental for such subsequent year.

"(D) TAX SHELTER.—The term 'tax shelter' means—

"(i) a partnership or other enterprise (other than a corporation which is not an S corporation) in which interests have been offered for sale, at any time, in any offering required to be registered with a Federal or State agency;

"(ii) a partnership or other enterprise if more than 35 percent of the losses are allocable to limited partners or limited entrepreneurs; or

"(iii) any partnership, entity, plan, or arrangement which is a tax shelter within the meaning of section 6661(b).".

(b) CAPITAL GAINS EXCLUSION IN SALE-LEASEBACK TRANSACTIONS.—Subsection (d) of section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end thereof the following new paragraph:

"(9) SALE OR EXCHANGE DEFINED.—For purposes of this section, the term 'sale or exchange' shall include a sale-leaseback transaction (as defined in section 167(i)).".

(c) INCOME IN SALE-LEASEBACK TRANSACTION.—

(1) GROSS INCOME.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

"SEC. 121A. INCOME IN SALE-LEASEBACK TRANSACTIONS.

"Gross income to the seller-lessee or the purchaser-lessor in a sale-leaseback transaction (as defined in section 167(i)) does not include any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback.".

(2) GAIN OR LOSS.—Subsection (b) of section 1001 is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) in the case of a sale-leaseback transaction (as defined in section 167(i))—

"(A) there shall not be taken into account any value of occupancy rights or discount from the fair market price of the property unencumbered by any leaseback, which is attributable to any leaseback, and

"(B) there shall be taken into account the cost of any annuity purchased for a seller-lessee by a purchaser-lessor.".

(3) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

"Sec. 121A. Income in sale-leaseback transactions.".

(d) INSTALLMENT SALES IN SALE-LEASEBACK TRANSACTIONS.—Section 453 (relating to installment method) is amended—

(1) by redesignating subsection (j) as subsection (k), and

(2) by inserting after subsection (i) the following new subsection:

"(j) APPLICATION WITH SECTION 167(i).—

"(1) IN GENERAL.—In the case of an installment sale in a sale-leaseback transaction (as defined in section 167(i)), subsection (a) shall apply.

"(2) SPECIAL RULE FOR ANNUITIES.—In the case of an annuity purchased for the seller-lessee by the purchaser-lessor in a sale-leaseback transaction, the purchase cost of such annuity shall constitute the amount of consideration received by such seller-lessee attributable to such annuity and shall be deemed received in the year of disposition of the property.".

(e) BASIS OF ANNUITY RECEIVED IN SALE-LEASEBACK TRANSACTION.—Subparagraph (A) of section 72(c)(1) (relating to annuities) is amended by inserting before the comma "(including such amount paid by a purchaser-lessor in a sale-leaseback transaction as defined in section 167(i))".

(f) SALE-LEASEBACK TRANSACTION ENGAGED IN FOR PROFIT.—Section 183 (relating to activities not engaged in for profit) is amended—

(1) by striking out "If" in subsection (d) and inserting in lieu thereof "(1) IN GENERAL.—If",

(2) by inserting after paragraph (1) of subsection (d) (as designated by paragraph (1)) the following new paragraph:

"(2) SALE-LEASEBACK TRANSACTION.—Any sale-leaseback transaction (as defined in section 167(i)), unless the Secretary establishes to the contrary, shall be presumed for purposes of this chapter to be an activity engaged in for profit.", and

"(3) by inserting '(1)' after 'subsection (d)' each place it appears in subsection (e).".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act and before December 31, 1988.

SEC. 868. INCREASE IN EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32 (relating to earned income credit) (as redesignated by section 851 of this Act) is amended—

(1) by striking out "10 percent" in subsection (a) and inserting in lieu thereof "10.5 percent",

(2) by striking out "$500" in subsection (b)(1) and inseting in lieu thereof "$525",

(3) by striking out "12.5 percent" in in subsection (b)(2) and inserting in lieu thereof "10.5 percent", and

(4) by striking out "$10,000" in subsection (f)(2)(B) and inserting in lieu thereof "$11,000".

(b) ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Paragraph (2) of section 3507 (c) (defining earned income advance amount) is amended—

(1) by striking out "10 percent" in subparagraphs (B)(i) and (C)(i) and inserting in lieu thereof "10.5 percent",

(2) by striking out "$10,000" in subparagraph (B)(ii) and inserting in lieu thereof "$11,000", and

(3) by striking out "$5,000" in subparagraph (C)(ii) and inserting in lieu thereof "$5,500".

(c) CONFORMING AMENDMENT.—Section 3507 (relating to advance payment of earned income credit) is amended by striking out "section 43" each place it appears and inserting in lieu thereof "section 32".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 869. INCLUSION OF CAPITAL CONSTRUCTION FUNDS FOR SHORE-BASED FISHERY PROCESSING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"(a) AGREEMENT RULES.—(1) Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more eligible fishery facilities (as defined in subsection (k)(10)), may enter into an agreement with the Secretary of Commerce under, and as provided

in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or facilities. Any agreement entered into under this section—

"(A) shall be for the purpose of providing—

"(i) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade,

"(ii) replacement fishing vessels, additional fishing vessels, or reconstructed fishing vessels, built in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States and documented under the laws of the United States for operation in the fisheries of the United States, or

"(iii) replacement fishery facilities, additional fishery facilities, or reconstructed fishery facilities, located in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States, or

"(B) shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f).

"(2) In applying paragraph (1)(A) (ii) or (iii)—

"(A) withdrawals may be made from a capital construction fund for the purchase of a used fishery vessel or a used fishery facility for any reconstruction purpose, if such reconstruction will contribute to the development of the United States fishing industry;

"(B) nothing in this section shall be construed as prohibiting the establishment and use of a capital construction fund—

"(i) with respect to fishing vessels for purposes of acquiring replacement, additional, or reconstructed fishery facilities,

"(ii) with respect to fishery facilities for purposes of acquiring replacement, additional, or reconstructed fishing vessels, or

"(iii) for fishing vessels and fishery facilities; and

"(C) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States.

"(3) The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulation prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of the sum of (A) that portion of such person's taxable income for such year which is attributable to the operation of the agreement vessels, or (B) that portion of such person's taxable income for such year which is attributable to the operation of the agreement fishery facilities. For purposes of the preceding sentence, taxable income shall be computed in the manner provided in subsection (b)(1)(A).

"(4) Notwithstanding any other provision of law, any agreement for any of the purposes set forth in paragraph (1)(A) (ii) or (iii) may be amended in order to—

"(A) allow for the withdrawal of moneys from the fund established by that agreement and the subsequent deposit of those moneys in a fund established, whether by the same or different persons, including partnerships under another existing agreement, or a new agreement, entered into for any such purpose or purposes; or

"(B) provide that one or more other persons may be permitted to become parties thereto and deposit moneys into the fund established by such agreement; whether or not any of the moneys for deposit are withdrawn pursuant to an agreement amended under subparagraph (A).

"(5) The Secretary may not require, in the case of any agreement entered into for the purpose of reconstructing a fishing vessel or fishery facility, that a minimum withdrawal be made from the fund. For purposes of this section, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.".

(b) DEFINITIONS.—Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'eligible fishery facility' means any fishery facility which is located in the United States.

"(11) The term 'qualified fishery facility' means any fishery facility—

"(A) which is located in the United States, and

"(B) which the person maintaining the fund agrees with the Secretary of Commerce will be used for one or more of the functions described in paragraph (13).

For purposes of this paragraph, paragraphs (1), (2), and (3), insofar as they relate to a fishing vessel, and paragraph (10) the term 'United States' includes American Samoa, the Virgin Islands of the United States, the Northern Mariana Islands, Guam, and any other commonwealth, territory, or possession of the United States; and, when applied with respect to a fishery facility described in paragraph (13)(B), includes the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).

"(12) The term 'agreement fishery facility' means any eligible fishery facility or qualified fishery facility which is subject to an agreement entered into under this section.

"(13) The term 'fishery facility' means—

"(A) for operations on land—

"(i) any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries,

"(ii) the land necessary for any such structure or appurtenance described in clause (i), and

"(iii) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in clause (i); or

"(B) for operations other than on land, any vessel built in the United States and used for, equipped to be used for, or of a type which is normally used for, the processing of fish;

but only if such structure, appurtenance, land, and equipment or vessel is owned by an individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands or by a corporation, partnership, association, or other entity that is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802), and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State, or District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States; and

"(ii) nationals of the United States or citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting any applicable ownership requirement.

"(14) The terms 'fishing' and 'fishing vessel' have the meanings given such terms by paragraphs (10) and (11) of section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(15) The term 'fish' means finfish, mollusks, crustaceans, and all other forms of marine animal and plantlife other than marine mammals and birds.

"(16) The term 'citizen of the Northern Mariana Islands' means—

"(A) an individual who qualifies under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, if such entity is owned (in the sense such term is used in section 2 of the Shipping Act, 1916) by individuals referred to in subparagraph (A) or citizens or nationals of the United States.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Subparagraph (A) of section 607(b)(1) of such Act is amended by inserting "(i)" after "(A)", and by inserting "or, (ii) that portion of the taxable income of the owner or lessee for such year (as so computed) which is attributable to the operation of the agreement fishery facilities," after "the fisheries of the United States".

(B) Subparagraph (B) of section 607(b)(1) of such Act is amended by inserting "or the agreement fishery facilities" after "the agreement vessels".

(C) Subparagraph (C) of section 607(b)(1) of such Act is amended by inserting "or agreement fishery facility" after "any agreement vessel" each place it appears.

(D) Paragraph (2) of section 607(b) of such Act is amended by inserting "or an agreement fishery facility" after "an agreement vessel" and by inserting "or such facility (as the case may be)" after "such vessel".

(2)(A) Subparagraph (A) of section 607(f)(1) of such Act is amended by inserting "or a qualified fishery facility" after "a qualified vessel".

(B) Subparagraph (C) of section 607(f)(1) of such Act is amended to read as follows:

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of—

"(i) a qualified vessel,

"(ii) a qualified fishery facility, or

"(iii) a barge or container which is part of the complement of the qualified vessel.".

(3)(A) Paragraphs (2) and (3) of section 607(g) of such Act is amended by inserting "fishery facility," after "vessel," each place it appears.

(B) Paragraph (4) of section 607(g) of such Act is amended by inserting "fishery facilities," after "vessels".

(4) The terms "fishery facility" and "citizen of the Northern Marianas" as used in

this section shall have the meanings given in title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280).

(d) INVESTMENT TAX CREDIT.—Subsection (g) of section 46 (relating to amount of investment tax credit) is amended—

(1) by inserting "or a qualified fishery facility" after "qualified vessel" in paragraph (1)(A), and

(2) by inserting "AND FISHERY FACILITIES" after "VESSELS" in the heading of such subsection.

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective upon the date of the enactment of this Act.

SEC. 870. ALLOCATION OF EXPENSES TO PARSONAGE ALLOWANCES.

With respect to any mortgage interest or real property tax costs paid or incurred before January 1, 1986, by any minister of the gospel who owned and occupied a home before January 3, 1983 (or had a contract to purchase a home before such date and subsequently owned and occupied such home), the application of section 265(1) of the Internal Revenue Code of 1954 to such costs shall be determined without regard to Revenue Ruling 83-3 (and without regard to any other regulation, ruling, or decision reaching the same result, or a result similar to, the result set forth in such Revenue Ruling).

SEC. 871. TREATMENT OF HOME WON IN LOCAL RADIO CONTEST AND SPECIALLY DESIGNED FOR HANDICAPPED FOSTER CHILD.

(a) If the Federal income tax attributable to the receipt of the prize described in subsection (b) is paid within one year after the date of the enactment of this Act, such payment shall be treated for purposes of the Internal Revenue Code of 1954 as being in full satisfaction of such tax and all interest, additions to the tax, additional amounts, and penalties in respect of liability for such Federal income tax.

(b) For purposes of subsection (a), the prize described in this subsection is a residence which—

(1) was won by the taxpayer in a local radio contest,

(2) was specially designed to meet the needs of a handicapped foster child of the taxpayer,

(3) is the principal residence (within the meaning of section 1034 of such Code) of the taxpayer, and

(4) had a lien placed on it by the Internal Revenue Service on May 24, 1983, after an Internal Revenue Service supervisor had overruled two payment schedules negotiated with the taxpayer for the payment of taxes, interest, and penalties on income attributable to such residence for the taxpayer's 1980 taxable year.

(c) For purposes of subsection (a), the Federal income tax attributable to the prize described in subsection (b) shall be determined without regard to interest, additions to the tax, additional amounts, and penalties.

SEC. 872. RESTRICTIONS ON INVESTIGATIONS AND EXAMINATIONS OF CHURCHES.

(a) IN GENERAL.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 505. SPECIAL PROVISIONS RELATING TO CHURCHES.

"(a) RESTRICTIONS ON INVESTIGATIONS OF CHURCHES.—

"(1) IN GENERAL.—The Secretary may commence an investigation or a proceeding to determine whether a church—

"(A) is carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities that may be subject to taxation under this title, or

"(B) is exempted under section 501(a) from taxation by reason of its status as a church,

only if the Secretary provides notice of such investigation or proceeding to the church under paragraph (3) and the requirements of paragraph (2) are met with respect to such investigation or proceeding.

"(2) REASONABLE BELIEF.—The requirements of this paragraph are met with respect to an investigation or proceeding described in paragraph (1) if the Secretary of the Treasury or an appropriate high-level delegate of the Secretary reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

"(A) may not be exempted under section 501(a) from taxation by reason of its status as a church, or

"(B) may be carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities subject to taxation under this title.

"(3) NOTICE OF INVESTIGATION.—Before commencing an investigation or proceeding described in paragraph (1), the Secretary shall provide written notice to the church of the commencement of such investigation or proceeding. Such notice shall include—

"(A) citation of the sections of the Internal Revenue Code of 1954 which authorize such investigation or proceeding,

"(B) a general explanation of the applicable administrative and constitutional rights of the church with respect to such investigation or proceeding (including the right to a conference before any examination of church records and the right to make a request under the Freedom of Information Act), and

"(C) an explanation of—

"(i) the concerns which give rise to such investigation or proceeding, and

"(ii) the general subject matter of such investigation or proceeding.

"(b) RESTRICTIONS ON EXAMINATION OF CHURCHES.—

"(1) IN GENERAL.—No examination of the religious activities of any organization claiming to be a church shall be made except to the extent necessary to determine whether such organization is a church, and no examination of any church records of such an organization shall be made except to the extent necessary to determine the amount of tax imposed by this title.

"(2) REQUIREMENTS FOR PERMISSIBLE EXAMINATIONS.—Any examination of religious activities or church records which the Secretary is authorized to conduct under paragraph (1) shall not commence—

"(A) before the day which is 15 days after the date the notice described in paragraph (3) is received by the church, or if later, by the regional counsel for the Internal Revenue Service,

"(B) before any conference requested by the church during such 15-day period has been held,

"(C) before the Secretary has responded to each request under the Freedom of Information Act which—

"(i) is a request for documents relevant to the investigation of the church being conducted by the Secretary, and

"(ii) is properly filed by the church before the close of such 15-day period, or

"(D) before any administrative appeal of the Secretary's response to a request described in subparagraph (C) has been completed.

"(3) NOTICE OF EXAMINATION.—

"(A) IN GENERAL.—At least 15 days before any examination of church records or religious activities of a church, the Secretary shall provide written notice to the church of the church records and religious activities that the Secretary seeks to examine. Such notice shall include—

"(i) an offer to have a conference between the church and a delegate of the Secretary of the Treasury in order to discuss, and attempt to resolve, concerns relating to such examination,

"(ii) an explanation of the right of the church to file a request with the Secretary under the Freedom of Information Act for documents held by the Secretary that are relevant to the investigation of the church being conducted by the Secretary, and

"(iii) a copy of the notice previously provided to the church under subsection (a)(3).

"(B) COPY OF NOTICE PROVIDED TO REGIONAL COUNSEL.—At the same time notice is provided to the church under subparagraph (A), a copy of such notice shall be submitted by the Secretary for review to the regional counsel for the appropriate internal revenue service region.

"(C) EARLIEST DAY NOTICE MAY BE SENT.—The notice described in subparagraph (A) shall not be provided to the church before the day that is 15 days after the day on which notice of the investigation is provided to the church under subsection (a)(3).

"(4) EXAMINATION OF RECORDS AND ACTIVITIES NOT SPECIFIED IN NOTICE.—Within the course of an examination which (at the time of commencement of the examination) meets the requirements of paragraphs (1) and (2), the Secretary may examine any church records or religious activities which were not specified in the notice provided to the church under paragraph (3) if the examination of such church records or religious activities meets the requirements of paragraph (1).

"(c) LIMITATION ON PERIOD OF INVESTIGATION OR PENDING PROCEEDINGS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) complete any investigation or examination described in subsection (a)(1) or (b)(1), and

"(B) make a final determination in any proceeding described in subsection (a)(1),

by no later than the date which is 2 years after the date on which notice of the commencement of such investigation or proceeding was provided to the church under subsection (a)(3).

"(2) SUSPENSION OF 2-YEAR PERIOD.—The running of the 2-year period described in paragraph (1) shall be suspended—

"(A) for any period of time during which—

"(i) a judicial proceeding brought by the church against the Secretary with respect to the investigation or administrative proceeding is pending or being appealed,

"(ii) a judicial proceeding brought by the Secretary against the church or any official of the church to compel compliance with any reasonable request of the Secretary for examination of church records or religious activities is pending or being appealed,

"(iii) the Secretary is unable to take action with respect to the investigation, examination, or proceeding by reason of an order issued in any judicial proceeding brought under section 7609, or

"(iv) a judicial appeal of the refusal of the Secretary, in whole or in part, to comply

with a request under the Freedom of Information Act that—

"(I) relates to such investigation, examination, or proceeding, and

"(II) was properly filed with the Secretary by the church at any time before the close of the 15-day period described in subsection (b)(3)(A),

is pending,

"(B) for the period of time necessary for timely processing by the Secretary of a request under the Freedom of Information Act that is described in subclauses (I) and (II) of subparagraph (A)(iv), or

"(C) for any period of time mutually agreed upon by the Secretary and the church.

"(d) LIMITATION ON ASSESSMENT OF TAX AND REVOCATION OF TAX-EXEMPT STATUS.—

"(1) The Secretary may—

"(A) revoke the classification of an organization as a church that—

"(i) is exempt from taxation by reason of section 501(a), or

"(ii) is described in section 170(c), or

"(B) assess any tax imposed by this title against a church,

only if the requirements of subsections (a) and (b) which are applicable with respect to such revocation or assessment have been met and the regional counsel for the applicable internal revenue service region has approved of such revocation or assessment in writing.

"(2) LIMITATION ON PERIOD FOR ASSESSMENT OF TAX.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, if—

"(i) a tax is imposed by this title with respect to a church, and

"(ii) no return is filed with respect to such tax,

no assessment of such tax shall be made by the Secretary after the close of the 3-year period which begins on the date such return was required to be filed by the church and no proceeding in court without assessment for the collection of such tax shall be begun after the close of such 3-year period.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) in the case of a willful attempt to defeat or evade any tax imposed by this title, or

"(ii) in the case of a knowing failure to file the return of the tax by this title.

"(C) SUSPENSION OF PERIOD OF LIMITATIONS.—The running of the 3-year period described in subparagraph (A) shall be suspended for any period of time described in subsection (c)(2).

"(e) VIOLATION OF THESE PROVISIONS TREATED AS A DEFENSE IN SUBSEQUENT ACTION.—If—

"(1) any judicial action is brought by the United States against a church as a result of any investigation, examination, or proceeding described in subsection (a) or (b), and

"(2) the requirements of this section with respect to such investigation, examination, or proceeding have not been met,

the failure to meet such requirements shall constitute a defense to such action, but shall not be an absolute defense.

"(f) SPECIAL APPROVAL REQUIRED FOR ADDITIONAL INVESTIGATIONS IN CERTAIN CASES.—If any investigation, examination, or proceeding described in subsection (a)(1) or (b)(1) with respect to a church has been completed and did not result in—

"(1) a revocation or assessment described in subsection (d)(1), or

"(2) a request by the Secretary for any significant change in the operational practices of the church (including the method of accounting),

no other investigation, examination, or proceeding described in subsection (a)(1) or (b)(1) shall be commenced against such church by any delegate of the Secretary without the written approval of the appropriate Assistant Commissioner of the Internal Revenue Service.

"(g) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—For purposes of sections 7428 and 7430, a church shall be treated as having exhausted the administrative remedies available to it when the church receives a final report of the investigating internal revenue agent.

"(h) DEFINITIONS.—For purposes of this section—

"(1) CHURCH.—The term 'church' includes any convention or association of churches.

"(2) HIGH-LEVEL DELEGATE.—The term 'high-level delegate' means any delegate of the Secretary of the Treasury who is no lower in rank than a principal internal revenue officer for an internal revenue region.

"(3) CHURCH RECORDS.—The term 'church records' means all corporate and financial records regularly kept by a church, including corporate minute books and lists of members and contributors. Such term shall not include any materials held by any person other than the church.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 7605 (relating to time and place of examination) is amended to read as follows:

"(c) CROSS REFERENCE.—

"For provisions which restrict the examination of churches and church records, see section 505.".

(2) The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 505. Special provisions relating to churches.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to investigations, examinations, and proceedings commenced after the date of enactment of this Act.

SEC. 873. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—For purposes of subsection (b), section 862(b), and section 863(b) of the Internal Revenue Code of 1954, all amounts allowable as a deduction for qualified research and experimental expenditures shall be allocated to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174, and

(B) which are attributable to activities conducted in the United States.

(2) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of subsection (c) of section 174 shall apply.

(c) TERMINATION.—This section shall not apply to taxable years beginning after August 13, 1985.

SEC. 874. EXCLUSION FROM GROSS INCOME OF CANCELLATIONS OF CERTAIN STUDENT LOANS.

(a) APPLICABLE LOANS.—Section 2117 of the Tax Reform Act of 1976 (relating to cancellation of certain student loans) is amended to read as follows:

"(a) IN GENERAL.—In the case of an individual, no amount shall be included in gross income for purposes of section 61 of the Internal Revenue Code of 1954 by reason of the discharge of all or part of the indebtedness of the individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

"(b) STUDENT LOAN.—For purposes of this section, the term 'student loan' means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) of such Code made by—

"(1) the United States, or an instrumentality or agency thereof,

"(2) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(3) a public benefit corporation—

"(A) which is exempt from taxation under section 501(c)(3) of such Code,

"(B) which has assumed control over a State, county, or municipal hospital, and

"(C) whose employees have been deemed to be public employees under State law, or

"(4) any such educational organization pursuant to an agreement with any entity described in any of the preceding paragraphs under which the funds from which the loan was made were provided to such educational organization.".

(b) EFFECTIVE DATE.—The provisions of this section shall apply to discharges of indebtedness made on or after January 1, 1983.

SEC. 875. SPECIAL LEASING RULES FOR CERTAIN COAL GASIFICATION FACILITIES.

(a) IN GENERAL.—Paragraph (3) of section 208(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:

"(G) COAL GASIFICATION FACILITIES.—

"(i) IN GENERAL.—Property is described in this subparagraph if such property—

"(I) is used directly in connection with the manufacture or production of low sulfur gaseous fuel from coal, and

"(II) would be described in subparagraph (A) if 'July 1, 1984' were substituted for 'January 1, 1983'.

"(ii) SPECIAL RULE.—For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such property is paid during such period.

"(iii) LIMITATION ON AMOUNT.—Clause (i) shall only apply to the lease of an undivided interest in the property in an amount which does not exceed the lesser of—

"(I) 50 percent of the cost basis of such property, or

"(II) $67,500,000.

"(iv) PLACED IN SERVICE.—In the case of property to which this subparagraph applies—

"(I) such property shall be treated as placed in service when the taxpayer receives an operating permit with respect to such

property from a State environmental protection agency, and

"(II) the term of the lease with respect to such property shall be treated as being 5 years.".

(b) SPECIAL RULE FOR SUBSECTION (a).—The amount of any recapture under section 47 of the Internal Revenue Code of 1954 with respect to the credit allowed under section 38 of such Code with respect to progress expenditures (within the meaning of section 46(d) of such Code) shall apply only to the percentage of the cost basis of the coal gasification facility to which the amendment made by subsection (a) applies.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 876. TECHNICAL MODIFICATION TO TIP REPORTING REQUIREMENTS.

(a) LOWER ALLOCATION OF GROSS RECEIPTS.—Subparagraph (C) of section 6053(c)(3) (relating to employee allocation of 8 percent of gross receipts) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "Upon the petition of the employer or the majority of employees of such employer, the Secretary", and

(2) by striking out "5 percent" and inserting in lieu thereof "2 percent".

(b) RECORDKEEPING BY TIPPED EMPLOYEES.—The Secretary of the Treasury shall prescribe by regulations within 1 year after the date of the enactment of this Act the applicable recordkeeping requirements for tipped employees.

SEC. 877. PROVISIONS OF INDIAN TRIBAL GOVERNMENTAL TAX STATUS ACT OF 1982 MADE PERMANENT.

Section 204 of the Indian Tribal Governmental Tax Status Act of 1982 is amended—

(1) by striking out "and before January 1, 1985" each place it appears, and

(2) by striking out "1983, and shall cease to apply at the close of December 31, 1984" in paragraph (5) and inserting in lieu thereof "1983".

SEC. 878. AMORTIZATION OF REHABILITATION EXPENDITURES.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1984" each place it appears and inserting in lieu thereof "January 1, 1987".

SEC. 879. PERMANENT DISALLOWANCE OF DEDUCTION FOR EXPENSES OF DEMOLITION OF CERTAIN HISTORIC STRUCTURES.

Subsection (c) of section 280B (relating to denial of deduction for expenses of demolition of certain historic structures) is amended by striking out ", and before January 1, 1984".

SEC. 880. EXTENSION OF INCREASED DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.

(a) EXTENSION.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (26 U.S.C. 190 note) (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers for the handicapped) is amended by striking out "beginning after December 31, 1976, and before January 1, 1983." and inserting in lieu thereof the following:

"beginning—

"(1) after December 31, 1976 and before January 1, 1983, and

"(2) after December 31, 1983 and before January 1, 1986.".

(b) INCREASE IN DEDUCTION.—Subsection (c) of section 190 (relating to limitation of deduction) is amended by striking out "$25,000" and inserting in lieu thereof "$35,000".

SEC. 881. EXEMPT STATUS FOR CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of care of children away from their homes if—

"(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public.".

(b) CROSS REFERENCES.—

(1) Subsection (n) of section 170 (as redesignated by section 808 of this Act) is amended by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k).".

(2) Subsection (f) of section 2055 is amended by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For treatment of certain organizations providing child care, see section 501(k).".

(3) Subsection (d) of section 2522 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k).".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 882. CREDIT FOR RESEARCH ACTIVITIES.

(a) EXTENSION OF THE RESEARCH CREDIT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(1) by striking out ", and before January 1, 1986", and

(2) by striking out the last sentence in paragraph (2)(A).

(b) MODIFICATION OF THE DEFINITION OF QUALIFIED RESEARCH FOR CREDIT PURPOSES.—Subsection (d) of section 44F is amended to read as follows:

"(d) QUALIFIED RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research' means—

"(A) planned search or systematic investigation (including basic research) undertaken for the purpose of discovering information which may be useful in the development of a technologically new or improved business component of the taxpayer, or

"(B) applying the results obtained from an activity described in subparagraph (A) or other knowledge to develop a technologically new or improved business component of the taxpayer, including the conceptual formulation, design, and testing of possible business component alternatives and the design, construction, and testing of prototypes, models, and pilot plants.

"(2) EXCLUSIONS.—The term 'qualified research' does not include—

"(A) any activity with respect to a technologically new or improved business component after the beginning of commercial production (as defined in paragraph (6));

"(B) any development of plant processes, machinery, or techniques for commercial production of a technologically new or improved business component, except where such process, machinery, or technique itself constitutes a technologically new or improved business component (within the meaning of paragraphs (3) and (4) of this subsection);

"(C) any adaptation of an existing business component to a particular requirement or customer's need as part of a continuing commercial activity;

"(D) any efficiency surveys, management studies, management techniques, market research, market testing and development (such as advertising or promotions), routine data collections, or routine or ordinary testing or inspection of materials or business components for quality control;

"(E) any development or improvement of a business component where the predominant portion of any related activity which would constitute qualified research but for this subparagraph constitutes duplication;

"(F) except to the extent provided for by regulations to be prescribed by the Secretary, any activity with respect to computer software that is separately developed by or for the benefit of the taxpayer specifically for the internal use of taxpayer other than for use in—

"(i) qualified research, or

"(ii) a production process that involves a business component with respect to which a credit is allowable under this section;

"(G) any activity conducted outside of the United States;

"(H) any activity in the social sciences, arts or humanities;

"(I) any activity to the extent funded by any grant, contract, or otherwise by any person (or any governmental entity); and

"(J) any activity undertaken for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

"(3) TECHNOLOGICALLY NEW OR IMPROVED.—A business component of the taxpayer shall be treated as 'technologically new or improved' if—

"(A) the new or improved characteristics of such component are technological (as defined in paragraph (7)) in nature, and

"(B) substantially all of the activities undertaken in developing or improving such component constitute elements of a process of experimentation (within the meaning of paragraph (4)) relating to such factors as new or improved function, performance, reliability, or quality, or reduced cost, rather than to—

"(i) style, taste, cosmetic, or seasonal design factors, or

"(ii) activities undertaken to assure achievement of the intended function, performance, quality, reliability, or cost of the business component after the beginning of commercial production (as defined in paragraph (6)) of such component.

For purposes of subparagraph (B), any activities relating to the duplication (as defined in paragraph (6)) by the taxpayer of a business component of the taxpayer or of another taxpayer shall not be treated as an

activity undertaken in developing or improving a business component of the taxpayer.

"(4) EXPERIMENTATION.—For purposes of this section, the term 'process of experimentation' shall mean a process in a field of science or technology of design and testing involving the steps of—

"(A) formulating detailed technological objectives and specifications for a technologically new or improved business component and designing alternatives to achieve these objectives because of uncertainty as to whether a particular alternative will achieve the desired result,

"(B) testing and analyzing (including modeling and simulation) these alternatives to determine their respective abilities to fulfill the desired objectives, and

"(C) refining and choosing among the alternatives based upon the knowledge derived from the tests and analyses and documenting such technological knowledge as to function and specifications.

"(5) BUSINESS COMPONENT.—

"(A) IN GENERAL.—The term 'business component' means a product, process, computer software, technique, formula, or invention to be offered for sale, lease, or license, or used by the taxpayer in a trade or business.

"(B) ELEMENTS OF A PRODUCT.—If the requirements of paragraph (3) are not met with respect to a product, process, or software but are met with respect to one or more elements thereof, the most significant set of elements of such product, process, or software with respect to which the requirements of paragraph (3) are met shall be treated as a business component.

"(6) BEGINNING OF COMMERCIAL PRODUCTION.—The term 'beginning of commercial production' means any activity after the business component has been developed to the point where it constitutes a finished business component which meets the functional and economic requirements of the taxpayer for such component or is ready for commercial sale or use.

"(7) TECHNOLOGICAL.—The term 'technological' means pertaining to or predicated upon principles of the physical sciences, biological sciences, engineering, or computer science.

"(8) DUPLICATION.—The term 'duplication' means any activity related to the reproduction of an existing business component from a physical examination of the component itself or from plans, blueprints, detailed specifications, or publicly available information with respect to such component.".

(c) AVAILABILITY OF THE CREDIT TO CERTAIN CORPORATIONS AND PARTNERSHIPS.—

(1) IN GENERAL.—Subsection (b) of section 44F is amended by adding at the end thereof the following new paragraphs:

"(4) AVAILABILITY TO CORPORATIONS.—All in-house research expenses and contract research expenses paid or incurred by a regular corporation shall constitute qualified research expenses if, at the time such research expenses are paid or incurred, the principal purpose of such corporation is to use the results of the research in the active conduct of a present or future trade or business and not to license or otherwise transfer such research results to any person other than a member of the same controlled group of corporations (within the meaning of section 1563(a)).

"(5) TRADE OR BUSINESS REQUIREMENT AND ALLOCATION IN THE CASE OF PARTNERSHIPS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an in-house research expense or contract research expense paid or incurred by a partnership is a qualified research expense of the partnership if the expense is paid or incurred by the partnership in carrying on a trade or business of the partnership as determined at the partnership level without regard to the trade or business of any partner. In the case of a partnership to which this subparagraph applies, the credit under this section shall be apportioned among the partners in accordance with section 704.

"(B) EXCEPTION FOR CERTAIN JOINT VENTURES.—In the case of an in-house research expense or a contract research expense that is paid or incurred by a partnership other than in carrying on a trade or business of the partnership, if—

"(i) each partner is a regular corporation, or

"(ii) each partner had conducted directly the research conducted by or on behalf of the partnership and all such research expenses paid or incurred by the partnership would have been paid or incurred by that partnership in carrying on a trade or business of that partner,

such expenses shall be treated as paid or incurred by a partnership in carrying on the trade or business of the partnership.".

(2) PASS-THRU.—Paragraph (2) of section 44F(f) is amended to read as follows:

"(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.".

(3) REGULAR CORPORATION.—Subsection (f) of section 44F is amended by adding at the end thereof the following:

"(7) REGULAR CORPORATION.—For purposes of this section, the term 'regular corporation' means any corporation other than—

"(A) an S corporation,

"(B) a service organization (as defined in section 414(m)(3)), and

"(C) except to the extent provided in regulations, a personal holding company (as defined in section 542).".

(d) EXPANSION OF THE CREDIT TO INCLUDE UNIVERSITY BASIC RESEARCH.—

(1) CREDIT FOR UNIVERSITY BASIC RESEARCH PAYMENTS IN EXCESS OF CERTAIN AMOUNT.—Subsection (a) of section 44F is amended to read as follows:

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the sum of—

"(1) the excess (if any) of—

"(A) the qualified research expenses for the taxable year over

"(B) the base period research expenses; and

"(2) the incremental university basic research amount.".

(2) DEFINITIONS AND SPECIAL RULES RELATING TO PAYMENTS FOR UNIVERSITY BASIC RESEARCH.—Subsection (e) of section 44F is amended to read as follows:

"(e) CREDIT AVAILABLE WITH RESPECT TO PAYMENTS TO COLLEGES, UNIVERSITIES, AND CERTAIN QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—

"(1) IN GENERAL.—Sixty-five percent of any amount of money paid or incurred in any taxable year by a corporation to any qualified organization for basic research which (except in the case of an organization which is described in subparagraph (C) or (D) of subsection (e)(3)) is to be performed by such organization shall be treated as contract research expenses paid or incurred in carrying on a trade or business of the taxpayer in that taxable year (without regard to the provisions of subsection (b)(3)(B)). The preceding sentence shall apply only if the amount is paid or incurred pursuant to a written agreement between the corporation and the qualified organization.

"(2) INCREMENTAL UNIVERSITY BASIC RESEARCH AMOUNT.—

"(A) IN GENERAL.—For purposes of this section, the term 'incremental university basic research amount' means that portion of the amount treated as contract research expenses for the taxable year under paragraph (1) which exceeds the sum of—

"(i) the minimum university basic research amount, and

"(ii) the maintenance-of-effort amount.

"(B) MINIMUM UNIVERSITY BASIC RESEARCH AMOUNT.—For purposes of this section, the term 'minimum university basic research amount' means an amount equal to the greater of—

"(i) the average of all amounts treated as contract research expenses under subsection (e)(1) for each of the three taxable years immediately preceding the taxable year beginning after December 31, 1983; or

"(ii) 1 percent of the average of the sum of—

"(I) all in-house research expenses,

"(II) contract research expenses, and

"(III) amounts treated as contract research expenses under subsection (e)(1),

for each of the three taxable years immediately preceding the taxable year beginning after December 31, 1983.

"(C) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this section, the term 'maintenance-of-effort amount' shall mean the excess of—

"(i) the average of the undesignated donations paid or incurred by the taxpayer during the base period, over

"(ii) the amount of undesignated donations paid or incurred by the taxpayer in the taxable year.

"(D) UNDESIGNATED DONATIONS.—For purposes of this section, the term 'undesignated donations' means the amount paid or incurred by the taxpayer to all institutions of higher education (within the meaning of section 170(m)(6)(C)) described in section 170(b)(1)(A)(ii)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which were not designated by the taxpayer for use for the purposes described in paragraph (1).

"(E) ADJUSTMENT OF UNDESIGNATED DONATIONS FOR BASIC RESEARCH.—If—

"(i) the amount of undesignated donations of the taxpayer for any taxable year within the base period is less than the amount of undesignated donations of the taxpayer for the taxable year preceding such taxable year, and

"(ii) the amount that is treated by reason of paragraph (1) as contract research expenses paid by the taxpayer in such taxable year is greater than the amount of such contract research expenses for the taxable year preceding such taxable year,

the amount of undesignated donations of the taxpayer for such taxable year shall, for purposes of determining the average under subparagraph (C)(i), be increased by the amount determined under subparagraph (F) with respect to such taxable year.

"(F) AMOUNT OF ADJUSTMENT UNDER SUBPARAGRAPH (E).—The amount determined under this subparagraph with respect to any taxable year is an amount equal to the lesser of—

"(i) the excess of—

"(I) the amount that is treated by reason of paragraph (1) as contract research ex-

penses paid or incurred by the taxpayer in such taxable year, over

"(II) the amount that is treated by reason of paragraph (1) as contract research expenses paid or incurred by the taxpayer in the taxable year preceding such taxable year, or

"(ii) the excess of—

"(I) the amount of undesignated donations of the taxpayer for the taxable year preceding such taxable year, over

"(II) the amount of undesignated donations of the taxpayer for such taxable year.

"(G) IN GENERAL.—For purposes of determining the amount of credit allowable under subsection (a)(1) of this section for any taxable year, the incremental university basic research amount shall not be treated as a qualified research expense under subsection (a)(1)(A) and shall not be included in the computation of base period research expenses under subsection (a)(1)(B).

"(3) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means—

"(A) any educational organization which is described in section 170(b)(1)(A)(ii) and which is an institution of higher education (within the meaning of section 170(m)(6)(C)),

"(B) any other organization which—

"(i) is described in section 501(c)(3) 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, or

"(C) any organization which—

"(i) either is described in section 501(c)(3) and is not a private foundation or is described in section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations (within the meaning of subsection (e)(3)(A)) pursuant to written research agreements, and

"(iv) expends on a current basis substantially all of its funds through grants or contracts for basic research by an organization (described in subsection (e)(3)(A)).

"(D) any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) and is not a private foundation,

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for purposes of making grants pursuant to written research agreements to organizations described in paragraph (3)(A) for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(4) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(A) basic research conducted outside of the United States, and

"(B) basic research in the social sciences or humanities.

"(5) CERTAIN CORPORATIONS NOT ELIGIBLE.—For purposes of this subsection, the term 'corporation' (as defined in section 7701(a)(3)) shall not include—

"(A) an S corporation (as defined in section 1361(a)),

"(B) a personal holding company (as defined in section 542), and

"(C) a service organization (as defined in section 414(m)(3)).".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) CERTAIN BASE YEARS.—The amendments made by subsection (a) shall not apply with respect to the determination of base period research expenses for taxable years beginning before January 1, 1985.

SEC. 883. DEDUCTION FOR CERTAIN CONTRIBUTIONS OF SCIENTIFIC EQUIPMENT.

(a) IN GENERAL.—Section 170 is amended—

(1) by striking out paragraph (4) of subsection (e),

(2) by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and

(3) by inserting after subsection (l) the following new subsection:

"(m) CONTRIBUTIONS OF SCIENTIFIC AND TECHNOLOGICAL PROPERTY FOR CERTAIN PURPOSES.—

"(1) AMOUNT OF DEDUCTION.—In the case of a qualified research contribution, the amount of the deduction shall not be reduced under subsection (e) but shall be determined under paragraph (4).

"(2) QUALIFIED RESEARCH CONTRIBUTION.—For purposes of this subsection, the term 'qualified research contribution' means a charitable contribution by a corporation of qualified scientific property to—

"(A) an educational organization which—

"(i) is described in section 170(b)(1)(A)(ii), and

"(ii) is an institution of higher education, or

"(B) an association—

"(i) substantially all of the members of which are educational organizations described in section 170(b)(1)(A)(ii) that are institutions of higher education,

"(ii) which is described in section 501(c)(3) and exempt from tax under 501(a), and

"(iii) which is not a private foundation.

"(3) QUALIFIED SCIENTIFIC PROPERTY.—For purposes of this subsection, the term 'qualified scientific property' means a charitable contribution by a corporation of property to an organization described in paragraph (2), but only if—

"(A) such property is—

"(i) tangible personal property described in section 1221(1),

"(ii) computer software, or

"(iii) tangible personal property used in carrying on the trade or business of the taxpayer (within the meaning of section 1231(b)),

"(B) such contribution is made through the governing body of the donee,

"(C) such property is scientific or technological equipment or apparatus, replacement parts therefor, or computer software, substantially all of the use of which by the donee is in the United States directly for—

"(i) research and experimentation (within the meaning of section 174),

"(ii) research training,

"(iii) educational use in a scientific or engineering laboratory, or

"(iv) educational use if the activity involving such property is a direct substitute for a scientific or engineering laboratory activity,

but only if used in mathematics, the physical or biological sciences, or engineering,

"(D) such contribution is made—

"(i) in the case of personal property described in section 1221(1) or computer software, not later than 6 months after the date upon which the manufacture, construction, or assembly of the property is substantially completed, or

"(ii) in the case of tangible personal property used in a taxpayer's trade or business (as defined in section 1231(b)), not more than 3 years after the property is first placed in service,

"(E) in case of a contribution of tangible personal property that is described in section 1221(1), such property is manufactured, produced or assembled by the taxpayer and the taxpayer is regularly engaged in the business of manufacturing, producing, or assembling of such property and selling or leasing of such property,

"(F) in the case of a contribution of tangible personal property that is described in paragraph (1) of section 1221 or of computer software, the original use of such property is by the donee,

"(G) the property is not transferred by the donee in exchange for money, other property, or services within 5 years of the date of the original transfer to donee,

"(H) the taxpayer receives from the governing body of the donee a written statement, executed under penalties of perjury, representing that—

"(i) the property meets the requirements of subparagraph (K), and

"(ii) the use and disposition of the property by the donee will be in accordance with the provisions of subparagraphs (C) and (G),

"(I) except in the case of property that is computer software or replacement parts, the fair market value of the property transferred exceeds $250,

"(J) such property is accompanied by the same warranty or warranties normally provided by the manufacturer in connection with a sale of the equipment or apparatus transferred, and

"(K) such property is functional and usable in the condition in which it is transferred for the purposes described in subsection (c)(1)(C), without the necessity of any repair, reconditioning, or other similar investment by the donee.

"(4) AMOUNT OF ALLOWABLE DEDUCTION.—The amount of the deduction allowable under paragraph (1) shall be—

"(A) in the case of tangible personal property that is described in paragraph (1) of section 1221 or of computer software, the fair market value of the property, limited to the lesser of (A) the sum of the taxpayer's basis in the property and one-half of the amount of gain which would not have been long-term capital gain if the property had been sold by the taxpayer at its fair market value (determined at the time of such transfer), or (B) twice the taxpayer's basis in the property; and

"(B) in the case of tangible personal property that is used in the taxpayer's trade or business (as defined in section 1231(b)), the lesser of—

"(i) the fair market value of the property, or

"(ii) 150 percent of the taxpayer's basis in the property (without regard to adjustments under section 1016) less any adjustments under section 1016(a).

"(5) PROPORTION OF PRODUCTS SOLD LIMITATION.—The deduction otherwise allowable under subsection (a) of section 170 shall not be allowed in the case of a contribution of otherwise qualified scientific property (excluding property used in the taxpayer's

trade or business), where the taxpayer's total qualified research contributions of such property under this section in the taxable year, as determined on a product-by-product basis, exceed 20 percent of the number of units of each such product sold by the taxpayer in the ordinary course of its business in that taxable year.

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

"(A) SUBSTANTIALLY ALL.—The term 'substantially all' shall mean at least 80 percent.

"(B) CORPORATION.—The term 'corporation' shall not include—

"(i) an S corporation (as defined in section 1361(a)),

"(ii) a personal holding company (as defined in section 542), or

"(iii) a service organization (as defined in section 414(m)(3)).

"(C) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation, and

"(iv) is a public or other nonprofit institution.".

(b) EFFECTIVE DATE.—The amendment made by section shall apply to taxable years beginning after December 31, 1984.

SEC. 884. EXCLUSION FROM GROSS INCOME OF CERTAIN SCHOLARSHIPS, GRANTS, AND STUDENT LOAN FORGIVENESS.

(a) IN GENERAL.—Part III of subchapter B of chapter I is amended by inserting after section 117 the following new section:

"SEC. 117A. SCHOLARSHIPS, FELLOWSHIP GRANTS, AND STUDENT LOAN FORGIVENESS RECEIVED BY CERTAIN GRADUATE SCIENCE STUDENTS.

"(a) GENERAL RULE.—In the case of a qualified individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship,

"(B) as a fellowship grant, or

"(C) as qualified student loan forgiveness,

including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incidental to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) QUALIFIED INDIVIDUAL.—For the purposes of this section, the term 'qualified individual' shall mean a student who is attending a qualified educational organization, who possesses a bachelor's degree or its equivalent, and who is engaged in postgraduate study as a degree candidate in mathematics, engineering, computer science, or the physical or biological sciences.

"(c) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of this section, the term 'qualified educational organization' shall mean an educational institution which—

"(1) is described in section 170(b)(1)(A)(ii),

"(2) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(3) is legally authorized within such State to provide a program of education beyond high school,

"(4) provides an educational program for which it awards a bachelor's or higher degree.

"(d) QUALIFIED STUDENT LOAN FORGIVENESS.—For purposes of this section, the term 'qualified student loan forgiveness' shall mean the forgiveness of a loan received by a qualified individual (as defined in subsection (b)) for the purpose of financing his postgraduate course of study in mathematics, engineering, computer science, or the physical or biological sciences, but only to the extent that—

"(1) the amount represented by the loan was expended for qualified tuition and related expenses (as defined in subsection (f)(2)),

"(2) such student is required in a written loan agreement, as a condition of receiving such forgiveness of the loan, to perform teaching services for any of a broad class of qualified educational organizations (as defined in subsection (c)) upon completion of his postgraduate course of study.

"(e) LIMITATION.—In the case of a qualified individual, subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required during his postgraduate course of study as a condition of receiving the scholarship, the fellowship grant, or qualified student loan. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships, fellowship grants, or qualified student loans) for a particular degree at a qualified educational organization as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(f) SCHOLARSHIPS AND FELLOWSHIP GRANTS NOT INCLUDABLE MERELY BECAUSE THERE IS A REQUIREMENT OF FUTURE SERVICE IN TEACHING.—

"(1) IN GENERAL.—If—

"(A) an amount received by a qualified individual would be excludable under subsections (a) and (e) as a scholarship or fellowship grant, but for the fact that such individual is required to perform teaching services for any of a broad class of qualified educational organizations upon completion of his postgraduate course of study, and

"(B) the individual establishes that, in accordance with the terms of the scholarship or grant, such amount was used for qualified tuition and related expenses, gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection, the term 'qualified tuition and related expenses' shall mean—

"(A) tuition and fees required for the enrollment or attendance of a qualified individual as a student at a qualified educational organization, and

"(B) fees, books, supplies, and equipment required for courses of instruction at a qualified educational organization.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 117 the following new item:

"Sec. 117A. Scholarships, fellowship grants, and student loan forgiveness received by certain graduate science students.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 885. TECHNICAL CORRECTION RELATING TO PERCENTAGE DEPLETION FOR SECONDARY AND TERTIARY PRODUCTION.

(a) IN GENERAL.—Subsection (c) of section 613A (relating to exemption for independent producers and royalty owners) is amended—

(1) by striking out the last sentence of paragraph (2),

(2) by inserting at the end of subparagraph (A) of paragraph (3) the following new sentence:

"Clause (ii) shall not apply after December 31, 1983.",

(3) by inserting at the end of subparagraph (E) of paragraph (7) the following new sentence: "This subparagraph shall not apply after December 31, 1983.", and

(4) by striking out "paragraph (1)" in subparagraph (A) of paragraph (9) and inserting in lieu thereof "this subsection".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1984.

SEC. 886. STUDY OF ALTERNATIVE INCOME TAX SYSTEMS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study covering the advisability of—

(1) replacing only the Federal individual income tax, or

(2) replacing both the Federal individual income tax and the Federal corporate income tax,

with an alternative tax system.

(b) CONTENTS OF STUDY.—Such study shall take into account the administrative complexity of the existing Federal income tax system and address the ramifications of replacing that system with an alternative tax system. Such study shall focus on (but not be limited to) the following factors:

(1) protecting the economically disadvantaged,

(2) increasing economic efficiency in both the private and public sectors of the economy,

(3) reducing paperwork and auditing requirements, reducing taxpayer fraud and evasion, and expediting resolution of tax disputes between taxpayers and the Federal Government,

(4) increasing economic incentives for capital formation and productivity,

(5) removing economic disincentives to employment,

(6) excluding certain items, such as social security benefits, from gross income,

(7) equalizing the tax burden on taxpayers with equal ability to pay taxes, and

(8) achieving the appropriate burden of taxes for each income class of taxpayers.

Such study shall also identify the strengths and potential weaknesses of an alternative tax system and propose possible solutions for any such potential weakness.

(c) ALTERNATIVE TAX SYSTEM.—For purposes of this section, the term "alternative tax system" means a system based on—

(1) a simplified income tax based on gross income;

(2) a consumption tax;

(3) a consumption-based tax; or

(4) the broadening of the base and lowering of the rates of the current income tax.

(d) REPORTING DATE.—The report of the study required by subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than six months after the date of the enactment of this Act.

SEC. 887. MIGRATORY BIRD HUNTING STAMPS.

(a) IN GENERAL.—Section 5 of the Act of March 16, 1934 (48 Stat. 451, Chapter 71; 16 U.S.C. 718e) is amended by adding at the end thereof the following new subsection:

(c) "Notwithstanding the provisions of subsection (b), or the prohibition in section 474 of title 18, United States Code, or other provisions of law, the Secretary of the Interior may authorize, with the concurrence of the Secretary of the Treasury, the color or black and white reproduction of migratory bird hunting stamps authorized by sections 1 through 4 and 6 through 9 of this Act, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1)(D) of title 18, United States Code. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary of the Interior by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be expended as provided for in section 72 of this Act.".

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

SEC. 888. EXCLUSION FROM GROSS INCOME OF PAYMENTS FROM THE UNITED STATES FOREST SERVICE AS A RESULT OF RESTRICTING MOTORIZED TRAFFIC IN THE BOUNDARY WATERS CANOE AREA.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section:

"SEC. 132. PAYMENTS BY THE UNITED STATES FOREST SERVICE AS A RESULT OF RESTRICTING MOTORIZED TRAFFIC IN THE BOUNDARY WATERS CANOE AREA.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include the excludable portion of payments received from the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area, pursuant to section 19(a) of 'An Act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes', approved October 21, 1978 (Public Law 95-495; 92 Stat. 1649).

"(b) EXCLUDABLE PORTION.—For purposes of this section the term 'excludable portion' means that portion (or all) of a payment made to any taxpayer during the period after December 31, 1979, and before the later of the date which is 2 years after—

"(1) the date of the enactment of the Deficit Reduction Tax Act of 1984, or

"(2) the date of such payment,

which payment is reinvested within such period in depreciable property used in a trade or business of such taxpayer as authorized by such Act. In determining whether reinvestment has occurred, no direct tracing is required.

"(c) ELECTION.—An election under subsection (a) shall identify such property for which such payment has been allocated. An election may be made at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by this chapter for the taxable year in which the reinvestment occurred, and shall be made in such manner as the Secretary shall by regulations prescribe.

"(d) BASIS OF PROPERTY.—

"(1) IN GENERAL.—The basis of any property, with respect to which an allocation of any payment has been elected, shall be reduced by the amount of such payment.

"(2) INCREASE DUE TO REPAYMENT.—The basis of any property described in paragraph (1) shall be increased by the amount of any repayments made to the United States Forest Service upon the sale of such property.

"(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed with respect to any expenditure which is properly associated with any amount excluded from gross income under subsection (a).".

(b) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 132 and by inserting in lieu thereof the following items:

"Sec. 132. Payments by the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area.

"Sec. 133. Cross references to other Acts.".

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1979.

(2) ELECTIONS FOR PRIOR YEARS.—Notwithstanding section 132 of the Internal Revenue Code of 1954 (as designated by this section), section 6511(a) of such Code, or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed under chapter 1 of such Code with respect to payments described in section 132 of such Code which were made after December 31, 1979, may be filed by any person with the election required by section 132(c) of such Code within the 1-year period beginning on the date of enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this paragraph within such 1-year period.

SEC. 889. STUDY OF TAXATION BY FOREIGN COUNTRIES ON SERVICES PERFORMED IN THE UNITED STATES.

(a) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the practices of foreign countries of taxing income on services performed within the United States, including, but not limited to—

(1) the status of treaty negotiations with such foreign countries with respect to such practices, and

(2) any options to alleviate the taxation of such income by more than 1 country without appropriate credit for taxes paid.

(b) REPORT.—The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a) no later than August 31, 1984.

SEC. 890. EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION OF EXCLUSION FROM GROSS INCOME FOR 2 YEARS.—Section 127(d) (relating to termination) is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1985".

(b) CERTAIN DEFERRED EDUCATIONAL BENEFITS TREATED AS DEFERRED COMPENSATION.—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended to read as follows:

"(b) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN; DEFERRED EDUCATIONAL BENEFITS.—

"(1) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If there is no plan but a method of employer contributions or compensation has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation (including a plan described in paragraph (2)), subsection (a) shall apply as if there were such a plan.

"(2) PLANS PROVIDING DEFERRED EDUCATIONAL BENEFITS.—For purposes of this section, any plan providing for deferred educational benefits for employees, their spouses, or their dependents shall be treated as a plan deferring the receipt of compensation. In the case of such a plan, for purposes of this section, the determination of when an amount is includible in gross income shall be made without regard to section 117 or 127.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

TITLE IX—SPENDING REDUCTION PROVISIONS

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SUBTITLE A—MEDICARE, MEDICAID, AND OTHER HEALTH PROVISIONS

PART I—MEDICARE BUDGET PROVISIONS

PART B PREMIUM

SEC. 901. (a) Section 1839(a) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) The monthly premium for each individual enrolled under this part for each month after December 1984 shall, except as provided in subsections (b) and (e), be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under paragraph (1) and applicable to such month.

"(3) The Secretary shall, during September of 1984 and of each year thereafter, determine and promulgate the monthly premium applicable for individuals enrolled under this part for the succeeding calendar year. Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees age 65 and older as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.".

(b) Section 1839(e) of such Act is amended to read as follows:

"(e)(1) If no cost-of-living increase becomes effective under section 215(i) in December of any year, the monthly premium of each individual enrolled under this part for the succeeding year shall (except as otherwise provided in subsection (b)) be the same as the monthly premium (disregarding subsection (b)) of the individual for such December.

"(2) If paragraph (1) does not apply to the monthly premiums for a year, if an individual is entitled to monthly benefits under section 202 or 223 for November and for December in that preceding year, and if the monthly premium for that December and for the following January is deducted from those benefits under section 1840(a)(1), the monthly premium for that individual for that January and for each of the succeeding 11 months for which he is entitled to benefits under section 202 or 223 shall (except as otherwise provided in subsection (b)) be the greater of—

"(1) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) necessary to make the monthly benefits under section 202 or 223 for that January after the deduction of the monthly premium (disregarding subsection (b)) for that January at least equal to the monthly benefits under section 202 or 223 for the preceding November after the deduction of the premium (disregarding subsection (b)) for that individual for that November, or

"(2) the monthly premium (disregarding subsection (b)) for that individual for that December.

For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223.".

(c)(1) Section 1839(b) of such Act is amended by striking out "or (e)".

(2) Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1) of such Act are each amended by striking out "1839(c)(3) or 1839(e), as the case may be" and inserting in lieu thereof in each instance "1839(c)(2)".

(d) The amendments made by this section shall apply to premiums for months beginning with January 1985.

ONE-MONTH DELAY IN MEDICARE ENTITLEMENT

SEC. 902. (a) Section 226 of the Social Security Act is amended by redesignating subsection (h) as subsection (i), and by inserting after subsection (g) the following:

"(h)(1) Except as provided in paragraph (2), for purposes of subsection (a)(1) and any other provision of this section, any provision of title XVIII of this Act, or any other provision of law, which establishes entitlement to or eligibility for benefits under such title XVIII or establishes any period of time in relation to such entitlement or eligibility, on the basis of the attainment of age

65, an individual shall be deemed to have attained age 65 on the first day of the month following the month in which he actually attains such age; except that, if such individual was entitled to hospital insurance benefits for the month preceding the month in which he actually attains age 65, he shall be deemed to have attained age 65 on the first day of the month in which he actually attains such age.

"(2) For purposes of subsection (b)(1), an individual shall be deemed to have attained age 65 on the first day of the month in which he actually attains such age.".

(b) Section 1836 of such Act is amended—

(1) by inserting "(a)" after the section designation; and

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

"(b) For purposes of subsection (a)(2), an individual shall be deemed to have attained age 65 on the first day of the month following the month in which he actually attains such age.".

(c) The amendments made by this section shall apply to individuals actually attaining age 65 after 1984.

MODIFICATION OF WORKING AGED PROVISION

SEC. 903. (a) Section 1862(b)(3)(A)(i) of the Social Security Act is amended by striking out "is over 64 but" each place it appears.

(b) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 is amended—

(1) by inserting ", and any employee's spouse aged 65 through 69," after "aged 65 through 69"; and

(2) by inserting ", and the spouse of such employee," after "same conditions as any employee".

(c)(1) The amendment made by subsection (a) shall be effective with respect to items and services furnished on or after January 1, 1985.

(2) The amendment made by subsection (b) shall become effective on January 1, 1985.

LIMITATION ON PHYSICIAN FEE PREVAILING AND CUSTOMARY CHARGE LEVELS; PARTICIPATING PHYSICIAN INCENTIVES

SEC. 904. (a) Section 1842(b) of the Social Security Act is amended—

(1) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A)(i) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for the 12-month period beginning July 1, 1984, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services performed by a physician who is not a participating physician (as defined in paragraph (12)) for the 12-month period beginning July 1, 1985, the Secretary shall not set any level for such period that is higher than the level set under clause (i).

"(B) In determining the reasonable charge under paragraph (3) for physicians' services for the 12-month period beginning July 1, 1984, the customary charges shall be deemed to be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983.

"(C) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for periods beginning after June 30, 1985 (in the case of a physician to whom subparagraph (A)(ii) does not apply) and for periods beginning after June 30, 1986 (in the case of a physician to whom subparagraph (A)(ii) applies) the Secretary shall treat the level as set under clause (i) of subparagraph (A) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A).''; and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Each year, the Secretary shall prepare and cause to be published a list containing the name, address, specialty, volume of services, and percent of bills submitted with respect to each physician and supplier during the preceding year that were paid on the basis of an assignment described in paragraph (3)(B)(ii). The Secretary may limit such list to those physicians and suppliers who accepted such an assignment in a certain percentage of such physician's or supplier's billings, as the Secretary may determine to be appropriate. Such list shall be organized by region or by such other geographical unit as the Secretary determines, after consultation with carriers with which there is an agreement under subsection (a), would facilitate the use of such list by individuals enrolled under this part.

"(B) Each year, the Secretary shall prepare a directory containing the name, address, and specialty of all participating physicians and suppliers (as defined in paragraph (12)) for the most current fee screen year. The directory shall be organized to make the most useful presentation of the information (as determined by the Secretary) for individuals enrolled under this part.

"(C) Each year, the Secretary shall promptly notify individuals enrolled under this part of the publication of such directory and shall make such directory available in each district and branch office of the Social Security Administration, in the offices of carriers, and to senior citizen organizations.

"(D) The Secretary shall provide that the directory shall be available for purchase by the public.

"(9) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, specialty, and telephone numbers of participating physicians and suppliers.

"(10) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the electronic transmission to such carrier of bills for services, such carrier shall establish direct lines for the electronic receipt of claims from participating physicians and suppliers.

"(11)(A) Each carrier having an agreement with the Secretary under subsection (a) shall, to the extent possible, enter into an agreement with any entity offering a medicare supplemental policy to an individual enrolled under this part under which a participating physician or supplier who provides physicians' services to an individual insured by such a policy may—

"(i) submit a bill for such services to the carrier, which will pay such participating physician or supplier the amount payable with respect to such services under this part and notify such entity of the amount so paid and the unpaid balance of such bill; or

"(ii) submit a bill for such services to such entity, which will pay such participating physician or supplier an amount equal to the amount payable under such policy and the amount payable under this part with respect to such services, and bill the carrier for the amount payable under this part with respect to such services.

The carrier shall limit the applicability of the agreement to only participating physicians and suppliers.

"(B) In the case of an individual who is insured under a medicare supplemental policy described in paragraph (6)(C) (relating to indirect payment of part B benefits), payment to a participating physician or supplier shall be made in accordance with the terms of that paragraph.

"(12) For purposes of this subsection—

"(A) the term 'participating physician or supplier' means a physician or supplier who, on or before March 31, 1985, and each year thereafter (or at such other time as the Secretary determines will give physicians and suppliers adequate time to sign a participation agreement), enters into an agreement with the Secretary which provides that, for the 12-month period beginning July 1 of each year, such physician or supplier will accept payment under this part on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedures described in section 1870(f)(1) for services furnished during such 12-month period to individuals enrolled under this part; and

"(B) the term 'medicare supplemental policy' means a health insurance policy or other health benefit plan—

"(i) certified by a State or by the Secretary in accordance with section 1882; or

"(ii) which is provided by one or more employers or labor organizations, or the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations, and which is offered to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title.".

LIMITATION ON INCREASE IN HOSPITAL COSTS PER CASE

SEC. 905. (a) Section 1886(b)(3)(B) of the Social Security Act is amended—

(1) by inserting "(i)" after "(B)";

(2) by striking out "1 percentage point plus", and by inserting before the period at the end thereof the following: ", increased or decreased in accordance with clause (ii) or (iii)"; and

(3) by adding at the end thereof the following:

"(ii) In the case of a hospital which is not a subsection (d) hospital—

"(I) for any cost reporting period or fiscal year beginning on or after October 1, 1984, and before October 1, 1985, the applicable percentage increase shall be the percentage determined under clause (i);

"(II) for any cost reporting period or fiscal year beginning on or after October 1, 1985, and before October 1, 1986, the applicable percentage increase shall be the percentage

determined under clause (i), plus one-quarter of one percentage point; and

"(III) for any cost reporting period or fiscal year beginning on or after October 1, 1986, the applicable percentage increase shall be the percentage determined under clause (i), plus one percentage point.

"(iii) In the case of a subsection (d) hospital, for any cost reporting period or fiscal year beginning on or after October 1, 1984, and before October 1, 1986, the applicable percentage increase—

"(I) except for purposes of subsection (d)(3)(A), shall be the percentage determined under clause (i), minus one-half of one percentage point; and

"(II) for purposes of subsection (d)(3)(A), shall be the percentage determined under clause (i), plus one-half of one percentage point.".

(b)(1) Section 1886(d)(3)(A) of such Act is amended by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal years 1985 and 1986".

(2) Paragraphs (2), (3), (4), and (5) of section 1886(e) of such Act are each amended by striking out "fiscal year 1986" and inserting in lieu thereof "fiscal year 1987".

(c) Subparagraphs (A)(ii) and (B)(ii) of section 1886(e)(1) of the Social Security Act are amended by inserting after "Amendments of 1983" the following: "but as amended (in subsection (b)(3)(B)) by section 905(a) of the Omnibus Reconciliation Act of 1983".

(d) The amendments made by this section shall apply to cost reporting periods beginning in, and discharges occurring in, fiscal year 1985 and thereafter.

FEE SCHEDULE FOR CLINICAL LABORATORY SERVICES

SEC. 906. (a) Section 1833(a)(1)(D) of the Social Security Act is amended to read as follows: "(D) with respect to diagnostic laboratory tests for which payment is made under this part, the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii)) of the lesser of the amount determined under subsection (h) or the amount of the charges billed for the tests;".

(b) Section 1833(a)(2) of such Act is amended—

(1) in subparagraph (B), by inserting "or (D)" after "subparagraph (C)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by adding "and" at the end of subparagraph (C); and

(4) by adding at the end thereof the following new subparagraph:

"(D) with respect to diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider, the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or a provider agreement under section 1866) of the lesser of the amount determined under subsection (h) or the amount of the charges billed for the tests;".

(c) Section 1833(b) of the Social Security Act is amended by striking out "and" at the end of clause (2) and by inserting before the period at the end of clause (3) the following: ", and (4) such deductible shall not apply with respect to diagnostic tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or a provider agreement under section 1866 and to which subsection (h) of this section applies".

(d) Section 1833(h) of such Act is amended to read as follows:

"(h)(1) The Secretary shall establish fee schedules for diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider. Such schedules shall be established on areawide bases as established by the Secretary.

"(2) The Secretary shall set the fee schedule at 60 percent (or, in the case of a test performed in a hospital laboratory, 62 percent) of the prevailing charges paid under this part for the area for similar diagnostic laboratory tests during the fee screen year beginning July 1, 1983, adjusted annually by a percentage increase or decrease equal to the percentage increase or decrease in the Consumer Price Index for All Urban Consumers (United States city average). The Secretary may make adjustments or exceptions to the fee schedule to assure adequate reimbursement of: (A) emergency laboratory tests needed for the provision of bona fide emergency services in a hospital emergency room; and (B) certain low volume high-cost tests where highly sophisticated equipment and extremely skilled personnel are necessary to assure quality.

"(3) In the case of a bill or request for payment for a diagnostic laboratory test for which payment may otherwise be made under this part, payment may be made only to the person or entity which performed or supervised the performance of such test. In the case of such a bill or request for payment which is not based upon an assignment described in section 1842(b)(3)(B) or a provider agreement under section 1866, payment may be made to the beneficiary only on the basis of the itemized bill of the person or entity which performed or supervised the performance of the test.".

(e) Section 1842 of such Act is amended by striking out subsection (h) thereof.

(f)(1) Except as provided in paragraph (3), the amendments made by this section shall apply only with respect to diagnostic laboratory tests furnished on or after May 1, 1984, and before October 1, 1987.

(2) With respect to diagnostic laboratory tests furnished on or after October 1, 1987, payment under part B of title XVIII of the Social Security Act shall be made in accordance with the provisions of such part as they would be in effect if the amendments made by this section had not been enacted.

(3) The provisions of section 1833(h)(3) as added by this section shall remain in effect on and after October 1, 1987.

(g) The Secretary of Health and Human Services shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for diagnostic laboratory tests so as to reduce unnecessary paperwork while assuring that sufficient information is supplied to prevent fraud and abuse.

(h) The Secretary of Health and Human Services shall report to the Congress prior to June 30, 1985, with respect to—

(1) recommendations with respect to direct payment of all fees for diagnostic laboratory tests to the physician under title XVIII of the Social Security Act;

(2) any possible basis for the formulation of a nationwide fee schedule for diagnostic laboratory tests under such title; and

(3) any appropriate indexing mechanism for adjusting such a fee schedule.

REVALUATION OF ASSETS ACQUIRED BY HOSPITALS

SEC. 907. (a) Section 1886(g) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall provide that in any case in which a hospital (including subsection (d) hospitals and other hospitals) acquires any asset which had been depreciated in whole or in part by the prior owner for purposes of payment under this title, the payments to the purchasing hospital under this title (with respect to inpatient and outpatient services) for capital-related costs of that asset (depreciation, equity capital, and interest) shall be based upon book value (that is the acquisition cost of the asset as carried on the books of the prior owner less any depreciation taken on the asset by such prior owner) and shall be determined using the same useful life and method of depreciation as used by such prior owner for purposes of payment under this title.".

(b) Section 1886(g)(2) of such Act is amended by inserting "except as otherwise provided in paragraph (3), and" after "March 1, 1983,".

(c) The amendments made by this section shall apply to capital-related costs of capital expenditures obligated on or after October 1, 1984.

REPEAL OF PREADMISSION DIAGNOSTIC TESTING PROVISION

SEC. 908. (a) Section 1833(a)(1) of the Social Security Act is amended by striking out "(F) with respect to" and all that follows through "(G)" and inserting in lieu thereof "and (F)".

(b) Section 1833(a) of such Act is amended—

(1) by adding "and" at the end of paragraph (3);

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) by striking out paragraph (5).

(c) Section 1833(a)(2) of such Act is amended by striking out "and in paragraph (5) of this subsection".

(d) Section 1833(b) and section 1833(i)(3) of such Act are each amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(F)".

(e) The amendments made by this section shall apply to services performed after the date of the enactment of this Act.

(f) The amendments made by this section shall not be construed as prohibiting payment, subject to the applicable copayments, under part B of title XVIII of the Social Security Act for preadmission diagnostic testing performed in a physician's office to the extent such testing is otherwise reimbursable under regulations of the Secretary.

SKILLED NURSING FACILITY REIMBURSEMENT

SEC. 909. (a)(1) Section 1861(v)(1)(E) of the Social Security Act is amended by striking out clause (i) thereof, and by striking out "(ii)".

(2) Section 1861(v)(7) of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) For further limitations on reasonable cost and determination of payment amounts for routine service costs of skilled nursing facilities, see section 1888.".

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENT TO SKILLED NURSING FACILITIES FOR ROUTINE SERVICE COSTS

"SEC. 1888. (a) The Secretary, in determining the amount of the payments which may be made under this title with respect to routine service costs of extended care services shall not recognize as reasonable (in the efficient delivery of health services) per diem costs of such services to the extent that such per diem costs exceed the following per diem limits, except as otherwise provided in this section:

"(1) With respect to free standing skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for free standing skilled nursing facilities located in urban areas.

"(2) With respect to free standing skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for free standing skilled nursing facilities located in rural areas.

"(3) With respect to hospital-based skilled nursing facilities located in urban areas, the limit shall be equal to the sum of the limit for free standing skilled nursing facilities located in urban areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in urban areas exceeds the limit for free standing skilled nursing facilities located in urban areas.

"(4) With respect to hospital-based skilled nursing facilities located in rural areas, the limit shall be equal to the sum of the limit for free standing skilled nursing facilities located in rural areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in rural areas exceeds the limit for free standing skilled nursing facilities located in rural areas.

In applying this subsection the Secretary shall make appropriate adjustments to the labor related portion of the costs based upon an appropriate wage index.

"(b) With respect to a hospital-based skilled nursing facility, the Secretary shall recognize as reasonable the portion of the cost differences between hospital-based and freestanding skilled nursing facilities attributable to excess overhead allocations (as determined by the Secretary) resulting from the reimbursement principles under this title, notwithstanding the limits set forth in paragraph (3) or (4) of subsection (a).

"(c) The Secretary may make adjustments in the limits set forth in subsection (a) with respect to any skilled nursing facility to the extent the Secretary deems appropriate, based upon case mix or circumstances beyond the control of the facility.".

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after July 1, 1984.

(d) Notwithstanding limits on the cost of skilled nursing facilities which may have been issued under section 1861(v) of the Social Security Act prior to the date of the enactment of this Act, in the case of cost reporting periods beginning on or after October 1, 1982, and prior to July 1, 1984, the cost limits for routine services for urban and rural hospital-based skilled nursing facilities shall be 112 percent of the mean of the respective routine costs for urban and rural hospital-based skilled nursing facilities.

(e) The Secretary of Health and Human Services shall submit to the Congress, prior to April 15, 1984, the report required under section 605(b) of the Social Security Amendments of 1983.

(f) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, a proposal for the implementation of a prospective payment plan for extended care services under title XVIII of the Social Security Act. The plan shall take into account case mix differences among skilled nursing facilities. The plan shall be designed so as to permit inclusion of payments to hospital-based facilities within the DRG payment system under section 1886(d) of such Act. The plan shall be designed for implementation effective October 1, 1985.

ROUNDING OF PART B PAYMENTS

SEC. 910. (a) Section 1833 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) Whenever payment under this part is made on the basis of the reasonable charge for the service, the amount of the payment, as determined after application of the provisions of section 1842 relating to the calculation of the reasonable charge and after the application of any deductibles and copayments, shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount. Where a payment is for more than one related service provided to the same patient, this subsection shall be applied to the total payment, rather than to each service separately. Any person or provider receiving such payment on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under a provider agreement under section 1866, may not charge to the beneficiary the amount by which the payment is reduced under this subsection.".

(b) The amendment made by this section shall apply to payments for services performed on or after July 1, 1984.

AGREEMENTS FOR MEDICARE CLAIMS PROCESSING

SEC. 911. (a)(1) Section 1816(a) of the Social Security Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary may enter into an agreement with any organization or agency under which such organization or agency shall make determinations of the amounts of the payments to be made under this part to the providers it serves, and shall make such payments to such providers. Determinations of the amounts of payment shall be subject to section 1878 and to such review by the Secretary as may be provided for in the agreement.".

(2) Section 1816(d) of such Act is repealed.

(3) Paragraphs (1) and (2) of section 1816(e) of such Act are each amended by striking out "Notwithstanding subsections (a) and (d), the Secretary" and inserting in lieu thereof "The Secretary".

(4) Section 1816(e)(4) of such Act is amended by striking out "subsections (a) and (d) and".

(b)(1) Section 1816(c) of such Act is amended by striking out "of so much of the cost of administration of the agency or organization as is determined by the Secretary to be necessary and proper for carrying out the functions covered by the agreement" and inserting in lieu thereof "to the organization for carrying out the functions covered by the agreement in accordance with such terms as the Secretary and the organization or agency shall agree upon".

(2) Section 1816(f) of such Act is amended—

(A) by inserting "(1)" after "(f)";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(C) by striking out ", by regulation,"; and

(D) by adding at the end thereof the following new paragraph:

"(2) Subject to the standards, criteria, and procedures developed pursuant to paragraph (1), the Secretary may utilize competitive and noncompetitive procedures for determining with whom he shall enter into an agreement under this section, and may experiment with innovative techniques for carrying out agreements under this section.".

(c)(1) Section 1842(c) of such Act is amended by striking out "of the cost of administration of the carrier, as determined by the Secretary to be necessary and proper for carrying out the functions covered by the contract" and inserting in lieu thereof "to the carrier for carrying out the functions covered by the contract in accordance with such terms as the Secretary and the carrier shall agree upon".

(2) Section 1842 of such Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary may utilize competitive and noncompetitive procedures for determining with whom he shall enter into a contract under this section, and may experiment with innovative techniques for carrying out such contracts.".

(d) The amendments made by this section shall become effective on October 1, 1984.

LESSER OF COST OR CHARGES

SEC. 912. The Secretary of Health and Human Services shall issue regulations which require, for purposes of title XVIII of the Social Security Act, that hospitals calculate and report the lesser-of-cost-or-charges determinations separately on the basis of inpatient and outpatient services, and that payment under such title be based upon such separate determinations. Such regulations shall apply to cost accounting periods beginning on or after October 1, 1984.

HEPATITIS B VACCINE

SEC. 913. (a) The first sentence of section 1881(b)(1) of the Social Security Act is amended by striking out "and" before "(B)" and by inserting before the period the following: ", and (C) payments to or on behalf of such individuals for hepatitis B vaccine and its administration".

(b) Section 1881(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(11) Hepatitis B vaccine and its administration shall be included as dialysis services with respect to individuals who are receiving dialysis services at or through a renal dialysis facility, and payment for such vaccine and its administration shall be made in such manner and amount as the Secretary determines to be appropriate, which may include the inclusion within the prospective payment amount established under paragraph (7). Such vaccine and its administration, when furnished to an individual who is receiving dialysis services, but not at or through a renal dialysis facility, shall be included as physicians' services, and payment shall be made in accordance with paragraph (3).".

(c)(1) Section 1862(a)(1)(B) of such Act is amended by inserting "or section 1881(b)(1)(C)" after "1861(s)(10)".

(2) Section 1862(a)(7) of such Act is amended by inserting ", section 1881(b)(1)(C)," after "1861(s)(10)".

(d) The amendments made by this section shall apply with respect to hepatitis vaccine administered on or after July 1, 1984.

(e) The Secretary of Health and Human Services shall adjust, effective with respect to services provided on or after the date of the enactment of this Act, the comprehensive fee or other basis of payment established under section 1881(b)(3)(B) of such Act, to reflect the amendments made by this section.

LIMITATION ON CERTAIN FOOT-CARE SERVICES

SEC. 914. (a) The Secretary of Health and Human Services shall provide, by regulation and pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every sixty days, unless the medical necessity for more frequent treatment is documented by the billing physician.

(b) The provision of subsection (a) shall apply to services performed on or after the date of the enactment of this Act.

COVERAGE OF HEMOPHILIA CLOTTING FACTOR

SEC. 915. (a) Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (G), by adding "and" at the end of subparagraph (H), and by adding at the end thereof the following new subparagraph:

"(I) blood clotting factors, for hemophilia patients competent to use such factors to control bleeding without medical or other supervision, and items related to the administration of such factors, subject to utilization controls deemed necessary by the Secretary or necessary for the efficient use of such factors;".

(b) The amendments made by subsection (a) shall be effective with respect to items and services purchased on or after the date of the enactment of this Act.

INDEXING OF PART B DEDUCTIBLE

SEC. 916. (a) Section 1833 (b) of the Social Security Act is amended—

(1) by striking out "of $75" and inserting in lieu thereof "determined under paragraph (2)";

(2) by redesignating clauses (1) through (3) as clauses (A) through (C);

(3) by inserting "(1)" after "(b)"; and

(4) by adding at the end thereof the following new paragraph:

"(2)(A) The part B deductible—

"(i) shall be $75 for the calendar year 1984;

"(ii) for each of the calendar years 1985, 1986, and 1987 shall be an amount equal to $75 increased or decreased by the percentage increase or decrease in the economic index utilized under section 1842 (b)(3) from the 12-month period which began on July 1, 1983, to the 12-month period that began on July 1 of the year preceding such calendar year (rounded to the nearest multiple of $1, or if midway between multiples of $1, rounded to the next higher multiple of $1); and

"(iii) for the calendar year 1988 and each succeeding calendar year, shall be equal to the deductible for calendar year 1987.

"(B) The Secretary shall, between July 1 and October 1 of 1984, and of each year thereafter, determine and promulgate the part B deductible which shall be applicable for the following calendar year.".

(b) The amendments made by subsection (a) shall be effective for calendar years after 1983.

(c) The Secretary of Health and Human Services shall determine and promulgate the part B deductible for calendar year 1985 as soon as possible after the date of the enactment of this Act.

COST SHARING FOR DURABLE MEDICAL EQUIPMENT FURNISHED AS A HOME HEALTH BENEFIT

SEC. 917. (a)(1) The matter in section 1814(b) of the Social Security Act preceding paragraph (1) is amended by inserting "and other than a home health agency with respect to durable medical equipment" after "hospice care".

(2) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

"Payments to Home Health Agencies for Durable Medical Equipment

"(k) The amount paid to any home health agency with respect to durable medical equipment for which payment may be made under this part shall be—

"(1) the lesser of—

"(A) the reasonable cost of such equipment, as determined under section 1861(v), or

"(B) the customary charges with respect to such equipment,

less the amount the home health agency may charge as described in section 1866(a)(2)(A)(ii), but in no case may the payment for such equipment exceed 80 percent of such reasonable cost, or

"(2) if such equipment is furnished by a public home health agency free of charge or at nominal charge to the public, the amount which the Secretary finds will provide fair compensation to the home health agency.".

(b)(1) The matter in section 1833(a)(2)(A) of such Act preceding clause (i) is amended by inserting "(other than durable medical equipment)" after "home health services".

(2) The matter in section 1833(a)(2)(B) of such Act preceding clause (i) is amended by inserting "items and" after "other".

(c) Section 1866(a)(2)(A)(ii) of such Act is amended by inserting "or which are durable medical equipment furnished as home health services" after "part B".

(d)(1) The first sentence of section 1833(f)(1) of such Act is amended by striking out "as described in section 1861(s)(6)".

(2) Section 1833(f)(2) of such Act is amended—

(A) by striking out "the 20 percent" and inserting in lieu thereof "any", and

(B) by striking out "under subsection (a)".

(3) Section 1833(f)(3) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subsection (a)".

(4)(A) Subsection (f) of section 1833 of such Act is redesignated as section 1889, is assigned the heading "Purchase of Durable Medical Equipment", and is moved to the end of part C.

(B) Paragraphs (1) through (4) of section 1889 are redesignated as subsections (a) through (d).

(e)(1) Section 1861(m)(5) of such Act is amended by striking out ", and the use of medical appliances" and inserting in lieu thereof "and durable medical equipment".

(2) Section 1861(s)(6) of such Act is amended by striking out everything after "durable medical equipment" up to the semicolon.

(3) Section 1861 of such Act is amended by inserting after subsection (m) the following:

"Durable Medical Equipment

"(n) The term 'durable medical equipment' includes iron lungs, oxygen tents, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased.".

(4) Section 1861(cc)(1)(G) of such Act is amended by striking out ", appliances, and equipment, including the purchase or rental of equipment" and inserting in lieu thereof "and durable medical equipment".

(f) Section 1814(j)(2) of such Act is amended—

(1) by redesignating subparagraphs (B) and (C) as (C) and (D), respectively, and

(2) by inserting the following after subparagraph (A):

"(B) Subsection (k)(1)(B).".

(g) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

TRANSFERS TO FEDERAL HOSPITAL INSURANCE TRUST FUND

SEC. 918. Section 1817 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) There shall be transferred for each of the fiscal years 1984, 1985, 1986, and 1987, from the general fund in the Treasury into the Federal Hospital Insurance Trust Fund amounts equal to the additional amounts which would have been included in the Government contribution for such fiscal year to the Federal Supplementary Medical Insurance Trust Fund under section 1844 for months beginning with July 1984 if the amendments made by part I of subtitle A of title IX of the Omnibus Reconciliation Act of 1983 had not been enacted (as estimated by the Secretary of Health and Human Services).".

PART II—MEDICAID AND MCH BUDGET PROVISIONS

EXTENSION OF MEDICAID PAYMENT REDUCTIONS AND OFFSETS

SEC. 921. (a) Section 1903(s)(1)(A) of the Social Security Act is amended by striking out "and" at the end of clause (ii), by adding "and" at the end of clause (iii), and by inserting after clause (iii) the following:

"(iv) each of the fiscal years 1985, 1986, and 1987, shall be reduced by 3 percent,".

(b) Section 1903(t)(1) of such Act is amended—

(1) by striking out "and 1984" and inserting in lieu thereof "1984, 1985, 1986, and 1987";

(2) by inserting "and" at the end of subparagraph (A); and

(3) by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) 1983, 1984, 1985, 1986, or 1987, is equal to the target amount determined under subparagraph (A) for the State, increased or decreased by a percentage equal to the percentage increase or decrease (as the case may be) in the index of the medical care expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of

Labor Statistics for the period beginning on October 1, 1982, and ending on the last day of the fiscal year for which the target is being computed.".

(c) Section 1903(t)(2) of such Act is amended by striking out "1985" and inserting in lieu thereof "1988".

(d) Section 1903(t)(3) of such Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) Only for purposes of computing under this subsection the Federal share of expenditures for a State for fiscal years 1985, 1986, and 1987 (in the case of the payments which may be made for the first quarter of fiscal years 1986, 1987, and 1988, respectively), the Federal medical assistance percentage for fiscal years 1985, 1986, and 1987 shall be the lower of the Federal medical assistance percentage for the State in effect for fiscal year 1981, or the Federal medical assistance percentage for the State in effect for the fiscal year for which such expenditures are being computed.".

(e)(1) Section 1903(t) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Except as provided in subparagraph (B), this subsection and paragraph (2) of subsection (s) shall not apply with respect to any payments based upon a claim (or adjustment to a claim) for a State expenditure which is submitted to the Secretary for payment after the end of the 24-month period beginning after the calendar quarter in which such expenditure was made.

"(B) Subparagraph (A) shall not apply to a State for a fiscal year if the total net amount of the claims (and adjustments) submitted by such State during that fiscal year which would otherwise be excluded under subparagraph (A) exceeds $5,000,000.".

(2) The amendment made by paragraph (1) shall apply to claims submitted on or after October 1, 1984.

(f) Section 2161 of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out subsection (c).

MANDATORY ASSIGNMENT OF RIGHTS OF PAYMENT BY MEDICAID RECIPIENTS

SEC. 922. (a) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912.".

(b) Section 1912(a) of such Act is amended by striking out "State plan for medical assistance may" and inserting in lieu thereof "State plan for medical assistance shall".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

INCREASE IN MEDICAID CEILING AMOUNT FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

SEC. 923. (a) Section 1108(c) of the Social Security Act is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed $63,400,000;

"(2) the Virgin Islands shall not exceed $2,100,000;

"(3) Guam shall not exceed $2,000,000;

"(4) the Northern Mariana Islands shall not exceed $550,000; and

"(5) American Samoa shall not exceed $1,150,000.".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

INCREASE IN AUTHORIZATION FOR MATERNAL AND CHILD HEALTH BLOCK GRANT

SEC. 924. (a) Section 501(a) of the Social Security Act is amended by striking out "$373,000,000 for fiscal year 1982 and for each fiscal year thereafter" and inserting in lieu thereof "$452,000,000 for fiscal year 1984, $453,000,000 for fiscal year 1985, and $455,000,000 for fiscal year 1986 and each fiscal year thereafter".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

MEDICAID COVERAGE FOR PREGNANT WOMEN

SEC. 925. (a)(1) Section 406(g)(2) of the Social Security Act is amended by striking out "may provide" and inserting in lieu thereof "shall provide".

(2) Section 1902(a)(10)(A)(i) of such Act is amended by striking out "as authorized in section 406(g)" and inserting in lieu thereof "as required in section 406(g)(2)".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on July 1, 1984.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

RECERTIFICATION OF SNF AND ICF PATIENTS

SEC. 926. (a)(1) Section 1903(g)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by—

(A) striking out ", skilled nursing facility or intermediate care facility on 60 days" and inserting in lieu thereof "or intermediate care facility for 60 days, or in a skilled nursing facility for 30 days";

(B) striking out ", skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days)" and inserting in lieu thereof "or intermediate care facility services furnished beyond 60 days, skilled nursing facility services furnished beyond 30 days, or inpatient mental hospital services furnished beyond 90 days"; and

(C) striking out "which for purposes of this section means the four calendar quarters ending with June 30,".

(2) Section 1903(g)(1)(A) of such Act is amended by striking out "at least every 60 days" and inserting in lieu thereof "at least as often as required under paragraph (7)".

(3) Section 1903(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Recertifications under paragraph (1)(A) shall be required at least every 60 days in the case of inpatient hospital services.

"(B) Such recertifications in the case of skilled nursing facility services shall be required at least—

"(i) 30 days after the initial certification,

"(ii) 60 days after the initial certification,

"(iii) 90 days after the initial certification, and

"(iv) every 60 days thereafter.

"(C) Such recertifications in the case of intermediate care facility services shall be required at least—

"(i) 60 days after the initial certification,

"(ii) 120 days after the initial certification,

"(iii) 12 months after the initial certification,

"(iv) 18 months after the initial certification,

"(v) 24 months after the initial certification, and

"(vi) every 12 months thereafter.

"(D) For purposes of determining compliance with the schedule established by this paragraph, the Secretary shall not consider any violation of such schedule in any case where there is a delay of 10 days or less, and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.".

(b) Section 1903(g)(4) of such Act is amended by adding at the end thereof the following new subparagraph:

"(C) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirements of subparagraphs (A) and (B) of such paragraph as applicable to a type of facility or institutional services, if the total number of patients receiving such type of services in that quarter whose records were included in sample onsite surveys conducted with respect to that quarter under paragraph (2) and were found not to comply with the requirements of subparagraphs (A) and (B) of paragraph (1) is less than 3 percent of the total number of patients whose records were included in such surveys with respect to that quarter.".

(c) Section 1903(g)(5) of such Act is amended by striking out "33½ per centum" and inserting in lieu thereof "5 percent".

(d) The amendments made by this section shall apply to quarters beginning on or after the date of the enactment of this Act.

PART III—OTHER MEDICARE AND MEDICAID PROVISIONS

STUDY OF PHYSICIAN REIMBURSEMENT FOR COGNITIVE SERVICES

SEC. 931. The Director of the Office of Technology Assessment shall conduct a study of physician reimbursement under the medicare program with respect to any

inequities that may exist between reimbursement levels for medical procedures and cognitive services, and shall make any recommendations for changes in such reimbursement system which may be appropriate. The study shall include specific findings and recommendations with respect to creating a method for adjusting payments to physicians as the costs and risks to physicians of providing services decrease over time due to new technologies and procedures. In carrying out the study, the Director shall consult with national physician organizations and with the Secretary of Health and Human Services. The Director shall report the results of such study to the Congress prior to December 31, 1985.

ELIMINATION OF PART B DEDUCTIBLE FOR CERTAIN DIAGNOSTIC LABORATORY TESTS

SEC. 932. (a) Section 1833(b) of the Social Security Act is amended by striking out "and" at the end of clause (2), and by inserting before the period at the end of clause (3) the following: ", and (4) such deductible shall not apply with respect to diagnostic tests performed in a laboratory for which the Secretary has established a payment rate under subsection (h)".

(b) Section 1833(h) of such Act, as such section shall be in effect on and after October 1, 1987, is amended by inserting before the period at the end thereof the following: "(including any deductibles which would have been made under subsection (b))".

(c) The amendments made by this section shall apply with respect to diagnostic tests performed on or after October 1, 1987.

PAYMENT FOR SERVICES FOLLOWING TERMINATION OF PARTICIPATION AGREEMENTS WITH HOME HEALTH AGENCIES

SEC. 933. (a) Section 1866(b)(4)(B) of the Social Security Act is amended by striking out "after the calendar year in which such termination is effective" and inserting in lieu thereof "more than 30 days after such effective date".

(b) The amendment made by this section shall apply to terminations issued on or after the date of the enactment of this Act.

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS UNDER MEDICARE AND MEDICAID

SEC. 934. (a) Section 1814(a) of the Social Security Act is amended—

(1) by repealing subparagraph (B) of paragraph (2);

(2) in paragraph (3), by striking out "and inpatient tuberculosis hospital services";

(3) by repealing paragraph (5); and

(4) in the matter following paragraph (8), by striking out "(B),".

(b)(1) Subsections (d) and (g) of section 1861 of such Act are repealed.

(2) Section 1861(e) of such Act is amended in the matter following paragraph (9) by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or".

(3) Section 1861(j) of such Act is amended in the matter following paragraph (15) by striking out "or tuberculosis".

(c) Section 1863 of such Act is amended by striking out "(g)(4),".

(d) Section 1866 of such Act is amended—

(1) in subsection (b)(3), by striking out "tuberculosis hospital services and"; and

(2) in subsection (d), by striking out "inpatient tuberculosis hospital services and".

(e) Section 1902(a)(28) of such Act is amended by striking out "and tuberculosis".

(f) Section 1903(g)(1) of such Act is amended by striking out "(including an institution for tuberculosis)", and by striking out "(including tuberculosis hospitals)".

(g) Section 1905(a) of such Act is amended by striking out "tuberculosis or" each place it appears in paragraphs (1), (4)(A), (14), (15), and (18)(B).

(h) The amendments made by this section shall become effective on the date of the enactment of this Act.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 935. (a) Section 1862(b)(1) of the Social Security Act is amended—

(1) in the first sentence, by inserting "promptly" after "to be made";

(2) in the second sentence, by inserting "or could be" after "has been"; and

(3) by inserting after the second sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity that would be responsible for payment with respect to such item or service (or any portion thereof) under such a law, policy, plan, or insurance, or against any individual or entity that has been paid with respect to such item or service under such law, policy, plan, or insurance, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of the individual or any other entity to payment with respect to such item or service under such a law, policy, plan, or insurance.".

(b) Section 1862(b)(2)(B) of such Act is amended—

(1) in the first sentence, by inserting "or could be" after "has been"; and

(2) by inserting after the first sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity that would be responsible for payment with respect to such item or service (or any portion thereof) under such a plan, or against any individual or entity that has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of the individual or any other entity to payment with respect to such item or service under such a plan.".

(c) Section 1862(b)(3)(A)(ii) of such Act is amended—

(1) in the first sentence, by inserting "or could be" after "has been"; and

(2) by inserting after the first sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity that would be responsible for payment with respect to such item or service (or any portion thereof) under such a plan, or against any individual or entity that has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of the individual or any other entity to payment with respect to such item or service under such a plan.".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 936. (a) The first sentence of section 1842(b)(6), as so redesignated by section 202 of this Act, is amended by inserting before the period at the end thereof the following: ", or (C) to an entity (i) which provides coverage of the service under a health benefits plan (to the extent that payment is not made under this part), (ii) which has paid the person who provided the service an amount which includes the amount payable under this part and which that person has accepted as payment in full for such service, and (iii) to which the individual has agreed in writing that payment may be made under this part".

(b) The second sentence of section 1842(b)(6) is amended by striking out "(i)" and "(ii)" and inserting in lieu thereof "(I)" and "(II)", respectively.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 937. (a) Section 1867 of the Social Security Act is repealed.

(b)(1) The first sentence of section 1863 of such Act is amended by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies," and inserting in lieu thereof "appropriate State agencies".

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 is amended by striking out "1867,".

(3) Section 361 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by striking out subsection (i).

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

CONFIDENTIALITY OF ACCREDITATION SURVEYS

SEC. 938. (a) Section 1865(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out "(on a confidential basis)", and

(2) by adding at the end thereof the following new sentence: "The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accreditation body, of an entity accredited by such body.".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END STAGE RENAL DISEASE FACILITIES

SEC. 939. (a) Section 1881(c)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the Secretary determines that the facility's or provider's failure to cooperate with network plans and goals does not jeopardize patient health or safety or justify termination of certification, he may instead, after reasonable notice to the provider or facility and to the public, impose such other sanctions as he determines to be appropriate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date

of the notice, and graduated reduction in reimbursement for all patients.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

USE OF ADDITIONAL ACCREDITING ORGANIZATIONS UNDER MEDICARE

SEC. 940. (a) The third sentence of section 1865(a) of the Social Security Act is amended—

(1) by striking out "section 1861(e), (j), (o), or (dd)" and inserting in lieu thereof "section 1832(a)(2)(F)(i), 1861(e), 1861(j), 1861(o), 1861(p)(4)(A) or (B), paragraphs (11) and (12) of section 1861(s), section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)"; and

(2) by striking out "institution or agency" each place it appears and inserting in lieu thereof in each instance "entity".

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF EXCLUSION OF FOR-PROFIT ORGANIZATIONS FROM RESEARCH AND DEMONSTRATION GRANTS

SEC. 941. (a) Section 1110(a)(1) of the Social Security Act is amended by striking out "nonprofit".

(b) The first sentence of section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended by striking out "nonprofit".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

REQUIREMENTS FOR MEDICAL REVIEW AND INDEPENDENT PROFESSIONAL REVIEW UNDER MEDICAID

SEC. 942. (a) Section 1902(a)(31) of such Act is amended to read as follows:

"(31) with respect to skilled nursing facilities (and with respect to intermediate care facility services, where the State plan includes medical assistance for such services) provide—

"(A) with respect to each patient receiving such assistance, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such care;

"(B) with respect to each facility within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations;".

(b) Section 1902(a)(26) of the Social Security Act is amended to read as follows:

"(26) if the State plan includes medical assistance for inpatient mental hospital services provide—

"(A) with respect to each patient receiving such assistance, for a regular program of medical review (including medical evaluation) of his need for such care, and for a written plan of care;

"(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving such assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;".

(c) Section 1902(a) of such Act is amended, in the matter following paragraph (45)—

(1) by striking out ", (26)" after "(9)(A)"; and

(2) by striking out "the term 'skilled nursing facility' and 'nursing home' " and inserting in lieu thereof "the terms 'skilled nursing facility', 'intermediate care facility', and 'nursing home' ".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

FLEXIBILITY IN SETTING PAYMENT RATES FOR HOSPITALS FURNISHING LONG-TERM CARE SERVICES UNDER MEDICAID

SEC. 943. (a) Section 1913(b) of the Social Security Act is amended to read as follows:

"(b) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), shall be at a payment rate established by the State in accordance with the requirements of section 1902(a)(13)(A). Such rate may, but need not, be the same as any rate established by the State for such services furnished by a skilled nursing or intermediate care facility.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

AUTHORITY OF THE SECRETARY TO ISSUE AND ENFORCE SUBPENAS UNDER MEDICAID

SEC. 944. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"APPLICATION OF PROVISIONS OF TITLE II RELATING TO SUBPENAS

"SEC. 1918. The provisions of subsections (d) and (e) of section 205 of this Act shall apply with respect to this title to the same extent as they are applicable with respect to title II.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF AUTHORITY FOR PAYMENTS TO PROMOTE CLOSING AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

SEC. 945. (a)(1) Section 1884 of the Social Security Act is repealed.

(2) Section 1903(e) of such Act is repealed.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act, but shall not apply to any transitional allowance established by the Secretary of Health and Human Services under section 1884 of the Social Security Act before the date of the enactment of this Act.

PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 946. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

"APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

"SEC. 1117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate.".

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator of the Health Care Financing Administration.".

(c) The amendments made by this section shall apply to appointments made after the date of the enactment of this Act.

EXCLUSION OF CERTAIN ENTITIES OWNED OR CONTROLLED BY INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 947. (a) Section 1128 of the Social Security Act is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) Whenever the Secretary determines, with respect to an entity, that a person who has a direct or indirect ownership or control interest of 5 percent or more in the entity, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such entity, is a person described in section 1126(a), the Secretary—

"(1) may bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such entity otherwise eligible to participate in such program;

"(2) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of the determination, and may require each such agency to bar the entity from participation in the program for such period as he may specify, which in the case of an entity specified in paragraph (1), may not exceed the period established pursuant to paragraph (1); and

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such entity of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1128(e) of such Act (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or entity" after "Any person", and

(2) by striking out "(a) or (b)" and inserting in lieu thereof "(a), (b), or (c)".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

JUDICIAL REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD DECISIONS

SEC. 948. (a) Section 602(h)(2) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding section 604, the amendments made by this paragraph shall be effective with respect to any appeal or action brought on or after April 20, 1983.".

(b) The amendment made by this section shall be effective as if it had been originally included in section 602(h)(2) of the Social Security Amendments of 1983.

ACCESS TO HOME HEALTH SERVICES

SEC. 949. (a) Section 1814(a) of the Social Security Act is amended by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency. Such regulations shall not prohibit a physician who has a significant interest in, or a significant relationship with, an agency that is the only home health agency in a county from performing such certification and establishing or reviewing such plan with respect to individuals who are furnished, or to be furnished, services by such agency.".

(b) Section 1835(a) of such Act is amended by adding at the end thereof the following new sentences: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency. Such regulations shall not prohibit a physician who has a significant interest in, or a significant relationship with, an agency that is the only home health agency in a county from performing such certification and establishing or reviewing such plan with respect to individuals who are furnished, or to be furnished, services by such agency.".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

PROVIDER REPRESENTATION IN PEER REVIEW ORGANIZATIONS

SEC. 950. (a) Section 1153(b)(3) of the Social Security Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), an entity shall not be considered to be affiliated with a health care facility or association of facilities by reason of common control if the common control consists of—

"(i) only one officer, governing body member, or managing employee who is common to the entity and the health care facility or association, in the case of an entity having 15 or fewer governing body members; or

"(ii) two or less such common officers, governing body members, or managing employees, in the case of an entity having more than 15 governing body members.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SEC. 951. (a) Section 1886(e)(2) of the Social Security Act is amended by inserting "(without regard to the provisions of title 5, United States Code, governing appointments in the competitive service)" after "appointed by the Director".

(b)(1) Section 1886 (e)(6)(C)(i) of such Act is amended to read as follows:

"(i) employ and fix the compensation of an Executive Director (subject to the approval of the Director of the Office) and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);".

(2) Section 1886 (e)(6)(C)(iii) of such Act is amended by inserting "(without regard to section 3709 of the Revised Statutes (41 U.S.C 5))" after "Commission".

(3) Section 1886 (e)(6)(C)(vi) of such Act is amended by inserting "(without regard to the provisions of the Federal Advisory Committee Act)" after "Commission".

(4) Section 1886(e)(6)(D) of such Act is amended by adding at the end thereof the following sentence: "Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.".

(c) Section 1886(e)(6) of such Act is further amended—

(1) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J), respectively; and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G) In order to supplement the activities of the Commission in assessing the safety, efficacy, and cost-effectiveness of new and existing medical procedures, the Secretary may carry out, or award grants or contracts for, original research and experimentation of the type described in clause (ii) of subparagraph (E) with respect to such a procedure if the Secretary finds that—

"(i) such procedure is not of sufficient commercial value to justify research and experimentation by a commercial organization;

"(ii) research and experimentation with respect to such procedure is not of a type that may appropriately be carried out by an institute, division, or bureau of the National Institutes of Health; and

"(iii) such procedure has the potential to be more cost-effective in the treatment of a condition than procedures currently in use with respect to such condition.".

(d) Section 1886(e)(6) of such Act is further amended—

(1) by redesignating subparagraphs (I) and (J) (as redesignated by subsection (c)(1)) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (H) (as so redesignated) the following new subparagraphs:

"(I)(i) The Secretary shall provide the Commission with such services, equipment, and facilities (including office space, office furnishings, and financial and administrative services) as are necessary for the operation of the Commission.

"(ii) As agreed upon by the Secretary and the Commission, the Secretary shall be reimbursed, for such services, equipment, and facilities by the Commission from appropriations made with respect to the Commission.

"(J) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.".

(e) The amendments made by this section shall become effective on the date of the enactment of this Act.

MEDICAID CLINIC ADMINISTRATION

SEC. 952. (a) Section 1905(a)(9) of the Social Security Act is amended to read as follows:

"(9) clinic services furnished by or under the direction of a physician (but for purposes of this paragraph the clinic itself need not be administered by a physician);".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

ENROLLMENT AND PREMIUM PENALTY WITH RESPECT TO WORKING AGED PROVISION

SEC. 953. (a) The second sentence of section 1839(b) of the Social Security Act is amended by adding before the period at the end the following: ", but there shall not be taken into account months in which the individual has met the conditions specified in clauses (i) and (iii) of section 1862(b)(3)(A) and can demonstrate that the individual was enrolled in a group health plan described in clause (iv) of such section by reason of the individual's (or the individual's spouse's) current employment".

(b) Section 1837 of such Act is amended by adding at the end the following new subsection:

"(i)(1) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or the individual's spouse's) current employment, and

"(C) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period,

there shall be a special enrollment period described in paragraph (3).

"(2) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period and any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment, and

"(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment,

there shall be a special enrollment period described in paragraph (3).

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period—

"(A) beginning with the first day of the third month before the month in which the individual attains the age of 70 and ending seven months later, or

"(B) beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later,

whichever period results in earlier coverage.".

(c) Section 1838 of such Act is amended by adding at the end the following new subsection:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to—

"(1) subparagraph (A) of section 1837(i)(3)—

"(A) before the month in which he attains the age of 70, the coverage period shall begin on the first day of the month in which he has attained the age of 70, or

"(B) in or after the month in which he attains the age of 70, the coverage period shall begin on the first day of the month following the month in which he so enrolls; or

"(2) subparagraph (B) of section 1837(i)(3)—

"(A) in the first month of the special enrollment period, the coverage period shall begin on the first day of such month, or

"(B) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which he so enrolls.".

(d)(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with the first effective month (as defined in paragraph (3)).

(2) The amendments made by subsections (b) and (c) shall apply to enrollments in months beginning with the first effective month, except that in the case of any individual who would have had a special enrollment period under section 1837(i) of the Social Security Act that would have begun before such first effective month, such period shall be deemed to begin with the first day of such first effective month.

(3) For purposes of this subsection, the term "first effective month" means the first month which begins more than ninety days after the date of the enactment of this Act.

EMERGENCY ROOM SERVICES

SEC. 954. (a) Section 1861(v)(1)(K) of the Social Security Act is amended by inserting "(i)" after "(K)" and by adding at the end thereof the following:

"(ii) For purposes of clause (i), the term 'bona fide emergency services' means services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(I) placing the patient's health in serious jeopardy;

"(II) serious impairment to bodily functions; or

"(III) serious dysfunction of any bodily organ or part.".

(b) Section 1861(v)(1)(K)(i) as so designated is amended by striking out "provided in an emergency room" and inserting in lieu thereof "as defined in clause (ii)".

(c) The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

PAYMENT FOR SERVICES OF A NURSE ANESTHETIST

SEC. 955. (a) Section 1886(d)(5) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The Secretary shall provide for an additional payment amount for any subsection (d) hospital equal to the reasonable costs incurred by such hospital for anesthesia services provided by a certified registered nurse anesthetist, subject to the limitation in clause (ii). Payment under this subparagraph shall be the only payment made to such hospital with respect to such services.

"(ii) The Secretary shall not recognize as reasonable any costs incurred by a subsection (d) hospital for anesthesia services provided by certified registered nurse anesthetists employed by such hospital in excess of the number of certified registered nurse anesthetists employed by such hospital for the calendar year 1982, as determined on an average basis of services per nurse anesthetist, except to the extent that the Secretary determines that the employment of additional certified registered nurse anesthetists by such hospital is warranted by reason of changes in patient volume, patient mix, or a loss of physician services.".

(b) Section 1886(a)(4) of such Act is amended by inserting ", services provided by a certified registered nurse anesthetist" after "approved education activities".

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after October 1, 1984.

(d) The Secretary of Health and Human Services shall conduct a study of possible methods of reimbursement under title XVIII of the Social Security Act which would not discourage the use of certified registered nurse anesthetists by hospitals. The Secretary shall report the results of such study to the Congress as soon as is practicable.

PROSPECTIVE PAYMENT WAGE INDEX

SEC. 956. (a) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall conduct a study to develop an appropriate index for purposes of adjusting payment amounts under section 1886(d) of the Social Security Act to reflect area differences in average hospital wage levels, as required under paragraphs (2)(H) and (3)(E) of such section, taking into account wage differences of full time and part time workers. The Secretary of Health and Human Services shall report the results of such study to the Congress prior to May 1, 1984, including any changes which the Secretary determines to be necessary to provide for an appropriate index.

(b) The Secretary shall adjust the payment amounts for hospitals for cost reporting periods beginning on or after October 1, 1983, to reflect any changes made in the wage index pursuant to subsection (a). Any adjustment in such payments to take account of overpayments or underpayments for the first cost reporting period of a hospital to which section 1886(d) of the Social Security Act applies, shall be made by decreasing or increasing payments in the succeeding cost reporting period.

HOSPICE CONTRACTING FOR CORE SERVICES

SEC. 957. (a) Section 1861(dd)(2)(A)(ii)(I) of the Social Security Act is amended by inserting "except as otherwise provided in paragraph (5)," before "and" at the end thereof.

(b) Section 1861(dd) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary may waive the requirements of paragraph (2)(A)(ii)(I) for an agency or organization with respect to all or part of the nursing care described in paragraph (1)(A) if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census);

"(ii) was in operation on or before January 1, 1983; and

"(iii) has demonstrated a good faith effort (as determined by the Secretary) to hire a sufficient number of nurses to provide such nursing care directly.

"(B) Any waiver requested by an agency or organization under subparagraph (A) shall be deemed to be granted unless such request is denied by the Secretary within 60 days after such request is received by the Secretary. The granting of a waiver under subparagraph (A) shall not preclude the granting of any subsequent waiver request should such a waiver again become necessary.".

(c) The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act.

(d) The Secretary of Health and Human Services shall conduct a study of the necessity and appropriateness of the requirements that certain "core" services be furnished directly by a hospice, as required under section 1861(dd)(2)(A)(ii)(I) of the Social Security Act. The Secretary shall report the results of such study to the Congress within 18 months after the date of the enactment of this Act.

EXEMPTION OF PUBLIC PSYCHIATRIC HOSPITALS FROM PROVISION LIMITING REIMBURSEMENT TO SNF RATES

SEC. 958. The provisions of section 1902(a)(13) of the Social Security Act, insofar as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the twelve-month period ending June 30, 1986, and during the twelve-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

CERTIFICATION OF PSYCHIATRIC HOSPITALS

SEC. 959. (a) Section 1861(f) of the Social Security Act is amended—

(1) by adding "and" at the end of paragraph (3);

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period;

(3) by striking out paragraph (5); and

(4) in the second sentence thereof, by striking out "if the institution is accredited" and all that follows, and inserting in lieu thereof a period.

(b) Section 1865(a) of such Act is amended by inserting "(f)," after "1861(e)," in the matter following paragraph (4).

(c) Section 1905(h)(1)(A) of such Act is amended to read as follows:

"(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f);".

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

PAYMENTS TO TEACHING PHYSICIANS

SEC. 960. (a) Section 1842(b)(6)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) to the extent that the amount of the payment exceeds the greater of (I) the reasonable charge for the services (with the customary charge determined consistent with subparagraph (B)), or (II) 75 percent of the prevailing charge for the services in the locality.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 961. (a) Not later than April 1, 1984, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary.

(b) Not later than April 1, 1984, the Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the current rate of reimbursement under part A of title XVIII of the Social Security Act for inpatient hospital services associated with implantation or replacement of pacemaker devices and pacemaker leads, and under part B of such title for physicians' services associated with such implantations and replacements. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the rates for such procedures were first established under such title.

(c)(1) The Secretary shall provide for the establishment and maintenance by the Administrator of the Food and Drug Administration of a registry of all cardiac pacemaker devices and pacemaker leads produced by any manufacturer for which payment was made under this title. Such registry shall include, with respect to each such device or lead, the model, serial number, and the name of the recipient of such device or lead, the date and location of the implantation or removal of such device or lead, the name of the physician involved in implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express on implied warranties associated with such device or lead, and such other information as the Secretary deems to be appropriate. Submission of the information required for the registry by a manufacturer shall be a condition for any payment under title XVIII of the Social Security Act with respect to any devices or leads produced by such manufacturer. The registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, tracing the performance of cardiac pacemaker devices and leads, determining when inspection by the Food and Drug Administration may be necessary under paragraph (3), and carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient).

(2) As a condition for payment being made for the implant or replacement of a cardiac pacemaker device or lead, the Secretary may, by regulation, require that a provider shall furnish to a manufacturer of cardiac pacemaker devices and pacemaker leads information with respect to all patients bearing a device or lead produced by such manufacturer for which payment was made or requested by such provider under title XVIII of the Social Security Act. The Secretary may also require that any device or lead removed from any such patient be returned to the manufacturer of such device or lead. An organization serving as a fiscal intermediary for a provider may, under regulations prescribed by the Secretary, deny payment for the replacement of a device or lead if such provider fails to return such device or lead in accordance with the preceding sentence, and such provider may not charge the beneficiary for such replacement. Charging a patient in violation of the preceding sentence shall constitute a violation of the provider's agreement under section 1866 of the Social Security Act.

(3) The Secretary may, by regulation, as a condition for payment under title XVIII of the Social Security Act with respect to any devices or leads produced by a manufacturer, require the manufacturer to test or analyze each returned cardiac pacemaker device or lead for which payment is made or requested under such title and provide the results of such test or analysis to the provider who returned it to the manufacturer, together with information and documentation with respect to any warranties covering such device or lead. In any case where the Secretary has reason to believe, based upon information in a pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under such title is related to the malfunction of such device or lead, the Secretary may require that personnel of the Food and Drug Administration test such device, or be present at the testing of such device by such manufacturer, to determine whether such device or lead was functioning properly.

(4) A manufacturer of cardiac pacemaker devices and pacemaker leads shall post a bond or provide such other assurances as the Secretary deems appropriate to ensure that such manufacturer will comply with the requirements of this subsection.

(5) The Secretary may by regulation require any manufacturer of cardiac pacemaker devices and pacemaker leads to provide to the Food and Drug Administration—

(A) a written report with respect to any adverse reaction to a device or lead and any device or lead defect, of which such manufacturer is notified (within ten days of the date on which such manufacturer is so notified); and

(B) an annual written report summarizing clinical experiences with devices and leads, including information on all removals, deaths, adverse reactions, device or lead defects, and the results of tests performed on all returned devices and leads.

(6) For purposes of this subsection, the term "manufacturer" shall have the meaning given to such term in regulations promulgated by the Food and Drug Administration.

OPEN ENROLLMENT PERIOD FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 962. (a) Section 1876(c)(3)(A) of the Social Security Act is amended—

(1) by inserting "(i)" after "(3)(A)".

(2) by inserting "and including the 30-day period specified under clause (ii)" after "30 days duration every year", and

(3) by adding at the end the following new clause:

"(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased during the 12-month enrollment period for which the individual is enrolling. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

(c) The Secretary of Health and Human Services may phase in, over a period of not longer than three years, the application of the amendments made by subsection (a) to all applicable areas in the United States if the Secretary determines that it is not administratively feasible to establish a single thirty-day open enrollment period for all such applicable areas before the end of the period.

WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATION

SEC. 963. (a) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of the enactment of this Act in the case of an application or protocol submitted before the date of the enactment of this Act.

(b) A project referred to in subsection (a) is a project—

(1) to demonstrate the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9.7604/1 of the University Health Policy Consortium of Brandeis University;

(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

(3) under which all medicare services will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost;

(4) under which medicaid services will be provided at a rate approved by the Secretary;

(5) under which all payors will share risk for no more than two years, with the organization being at full risk in the third year;

(6) which is being provided funds under a grant provided by the Secretary of Health and Human Services; and

(7) with respect to which substantial private funds are being provided other than under the grant referred to in paragraph (5).

(c) The waivers referred to in subsection (a) are appropriate waivers of—

(1) certain requirements of title XVIII of the Social Security Act, pursuant to section 402(a) of the Social Security Amendments of 1967 (as amended by section 222 of the Social Security Amendments of 1972); and

(2) certain requirements of title XIX of the Social Security Act, pursuant to section 1115 of such Act.

FUNDING FOR PSRO REVIEW

SEC. 964. (a) Section 1866(a)(1)(F) of the Social Security Act is amended by inserting "with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or" after "maintain an agreement".

(b) Notwithstanding section 604(a)(2) of the Social Security Amendments of 1983, the requirement that a hospital maintain an agreement with a utilization and quality control peer review organization, as contained in section 1866(a)(1)(F) of the Social Security Act, shall become effective on January 1, 1985.

(c)(1) Section 1153(b)(2)(A) of the Social Security Act is amended by striking out "During the first twelve months in which the Secretary is entering into contracts under this section" and inserting in lieu thereof "Prior to January 1, 1985".

(2) Section 1153(b)(2)(B) of such Act is amended by striking out "after the expiration of the twelve-month period referred to in subparagraph (A)" and inserting in lieu thereof "after December 31, 1984".

(3) Section 1153(b)(2) of such Act is amended by striking out subparagraph (C).

(d) The provisions of, and amendments made by, this section shall become effective on May 1, 1984.

MEDICARE TECHNICAL AMENDMENTS RELATING TO THE SOCIAL SECURITY AMENDMENTS OF 1983

SEC. 965. (a)(1) Section 1818(c) of the Social Security Act is amended by striking out "subsection (a) of section 1839" and inserting in lieu thereof "subsection (b) of section 1839".

(2) Section 1866(a)(1)(F) of such Act is amended by striking out "(c) or (d)" and inserting in lieu thereof "(b), (c), or (d)".

(3) Section 1886(c)(4)(A) of such Act is amended by striking out "and (D)" and inserting in lieu thereof "(D) and (E)".

(4) Section 1886(e)(5) of such Act is amended—

(A) by striking out "for public comment" in the matter preceding subparagraph (A); and

(B) by inserting "for public comment" in subparagraph (A) after "that fiscal year,".

(b) Section 604(c)(3) of the Social Security Amendments of 1983 is amended by striking out "to implement subsection (d) of section 1886 of the Social Security Act (as so amended)" and inserting in lieu thereof "to implement the amendments made by this title".

(c) The amendments made by the preceding provisions of this section shall be effective as though they had been originally included in the Social Security Amendments of 1983.

(d) Section 1878(f)(1) of such Act is amended by striking out "such determination is rendered" and inserting in lieu thereof "notification of such determination is received".

SUBTITLE B—INCOME MAINTENANCE PROVISIONS

PARENTS AND SIBLINGS OF DEPENDENT CHILD INCLUDED IN AFDC FAMILY

SEC. 971. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(37) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

"(A) any parent of such child, and

"(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a),

if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II); and

"(38) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent or legal guardian is under the age selected by the State pursuant to section 406(a)(2), the State agency shall (except as otherwise provided in this part) include any income of such minor's own parents or legal guardians who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31).".

(b) The amendments made by this section shall become effective on April 1, 1984.

HOUSEHOLDS HEADED BY MINOR PARENTS

SEC. 972. (a) Section 402(a) of the Social Security Act (as amended by section 971 of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(39) provide—

"(A) that any individual who is under the age limit selected by the State pursuant to section 406(a)(2) and is not and has never been married, and who is responsible for the care of a dependent child (or is pregnant and on that basis eligible for aid under the State plan) shall be eligible for aid under the plan (and such dependent child shall be eligible for such aid) only if such individual resides in a place of residence maintained by such individual's parent or legal guardian as such parent's or guardian's own home; except that this paragraph shall not apply to such individual if the State agency determines that—

"(i) such individual has no parent or legal guardian who is living and whose whereabouts are known;

"(ii) the health and safety of such individual or such dependent child would be seriously jeopardized if such individual lived in the same residence with such individual's parent or legal guardian; or

"(iii) such individual has lived apart from his parent or legal guardian for a period of at least one year prior to (I) the birth of the dependent child for whose care the individual is responsible, or (II) the making of a claim for aid under this part, whichever is later; and

"(B) that whenever an individual to whom this paragraph applies is eligible for aid under the plan, the State may make payments of the type described in section 406(b)(2) for one or more months until such individual exceeds the age limit selected by the State pursuant to section 406(a)(2).".

(b) The amendments made by this section shall become effective on April 1, 1984.

CLARIFICATION OF EARNED INCOME PROVISION

SEC. 973. (a) Section 402(a)(8) of the Social Security Act is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) provide that in implementing this paragraph the term 'earned income' shall mean gross earned income, prior to any deductions for taxes or other purposes;".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

CWEP WORK FOR FEDERAL AGENCIES PERMITTED

SEC. 974. (a) Section 409(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Participants in community work experience programs under this section may, subject to subparagraph (B), perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(B) The State agency shall provide appropriate workers' compensation and tort claims protection to each participant performing work for a Federal office or agency pursuant to subpargraph (A).".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

EARNED INCOME OF FULL-TIME STUDENTS

SEC. 975. (a) Section 402(a)(18) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: "except that, in determining the total income of the family, the State may exclude any earned income of a dependent child who is a full-time student, in such amounts and for such period of time (not to exceed six months) as the State may determine".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

SEC. 976. (a) Section 1127 of the Social Security Act is amended to read as follows:

"ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

"SEC. 1127. (a) Notwithstanding any other provision of this Act, in any case where an individual—

"(1) is entitled to benefits under title II that were not paid in the months in which they were regularly due; and

"(2) is an individual or eligible spouse eligible for supplemental security income benefits for one or more months in which the benefits referred to in clause (1) were regularly due,

then any benefits under title II that were regularly due in such month or months, or supplemental security income benefits for such month or months which are due but have not been paid to such individual or eligible spouse, shall be reduced by an amount equal to so much of the supplemental security income benefits, whether or not paid retroactively, as would not have been paid or would not be paid with respect to such individual or spouse if he had received such benefits under title II in the month or months in which they were regularly due.

"(b) For purposes of this section, the term 'supplemental security income benefits' means benefits paid or payable by the Secretary under title XVI, including State supplementary payments under an agreement pursuant to section 1616(a) or an administration agreement under section 212(b) of Public Law 93-66.

"(c) From the amount of the reduction made under subsection (a), the Secretary shall reimburse the State on behalf of which supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the month or months involved exceeded the expenditures which the State would have made (for such month or months) if the individual had received the benefits under title II at the times they were regularly due. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) The amendment made by this section shall apply for purposes of reducing retroactive benefits under title II of the Social Security Act or retroactive supplemental security income benefits payable beginning with the seventh month following the month in which this Act is enacted; except that in the case of retroactive title II benefits other than those which result from a determination of entitlement following an application for benefits under title II or from a reinstatement of benefits under title II following a period of suspension or termination of such benefits, it shall apply when the Secretary of Health and Human Services determines that it is administratively feasible.

REGULATORY INITIATIVE ON MEDICAL SUPPORT

SEC. 977. The Secretary of Health and Human Services shall issue regulations to require that State agencies administering the child support enforcement program under part D of title IV of the Social Security Act petition courts to include medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Such regulations shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under title XIX of such Act with respect to the availability of health insurance coverage.

SUBTITLE C—OASDI PROVISIONS

SPECIAL SOCIAL SECURITY TREATMENT FOR CHURCH EMPLOYEES

SEC. 981. (a)(1) Section 210(a)(8) of the Social Security Act is amended by inserting "(A)" after "(8)", by striking out "this paragraph" and inserting in lieu thereof "this subparagraph", and by adding at the end thereof the following new subparagraph:

"(B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1954, other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code);".

(2) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by inserting "(A)" after "(8)", by striking out "this paragraph" and inserting in lieu thereof "this subparagraph", and by adding at the end thereof the following new subparagraph:

"(B) service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section 513(a));".

(b) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(w) EXEMPTION OF CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—

"(1) GENERAL RULE.—Any church or qualified church-controlled organization (as defined in paragraph (3)) may make an election within the time period described in paragraph (2), in accordance with such procedures as the Secretary determines to be appropriate, that services performed in the employ of such church or organization shall be excluded from employment for purposes of title II of the Social Security Act and chapter 21 of this Code. An election may be made under this subsection only if the church or qualified church-controlled organization states that such church or organization is opposed for religious reasons to the payment of the tax under section 3111, and only if such church or organization did not have a waiver in effect under subsection (k) on December 31, 1980.

"(2) TIMING AND DURATION OF ELECTION.—An election under this subsection must be made prior to the first date, more than 90 days after the date of the enactment of this subsection, on which a quarterly employment tax return for the tax imposed under section 3111 is due, or would be due but for the election, from such church or organization. An election under this subsection shall apply to current and future employees, and shall apply to service performed after December 31, 1983. The election may not be revoked by the church or organization, but shall be permanently revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of two years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the period covered by the election. Such revocation shall apply retroactively to the beginning of the two-year period for which the information was not furnished.

"(3) DEFINITIONS.—

"(A) For purposes of this subsection, the term 'church' means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"(B) For purposes of this subsection, the term 'qualified church-controlled organization' means any church-controlled tax-exempt organization described in section 501(c)(3), other than an organization which—

"(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

"(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.".

(c)(1) Section 211(c)(2) of the Social Security Act is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) service described in section 210(a)(8)(B);".

(2) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) service described in section 3121(b)(8)(B);".

(d)(1) Section 211(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

"(A) no deduction for trade or business expenses provided under the Internal Revenue Code of 1954 (other than the deduction under paragraph (11) of this subsection) shall apply;

"(B) the provisions of subsection (b)(2) shall not apply; and

"(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.".

(2) Section 1402(a) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of paragraph (12);

(B) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

"(A) no deduction for trade or business expenses provided under this Code (other than the deduction under paragraph (12)) shall apply;

"(B) the provisions of subsection (b)(2) shall not apply; and

"(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.".

(e) The amendments made by this section shall apply to service performed after December 31, 1983.

(f) In any case where a church or qualified church-controlled organization makes an election under section 3121(w) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall refund (without interest) to such church or organization any taxes paid under sections 3101 and 3111 of such Code with respect to service performed after December 31, 1983, which is covered under such election. The refund shall be conditional upon the church or organization agreeing to pay to each employee (or former employee) the portion of the refund attributable to the tax imposed on such employee (or former employee) under section 3101, and such employee (or former employee) may not receive any other refund payment of such taxes.

SOCIAL SECURITY COVERAGE FOR LEGISLATIVE BRANCH EMPLOYEES NOT COVERED BY THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 982. (a)(1) Clause (v) of section 210(a)(5) of the Social Security Act is amended to read as follows:

"(v) any other service in the legislative branch of the Federal Government if such service (I) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, on December 31, 1983, or (II) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or (III) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, or does not have an application pending for coverage under such subchapter, for any period of time after December 31, 1983, while performing service in the legislative branch of the Federal Government (determined without regard to the provisions of subparagraph (B) relating to continuity of employment for individuals who return to service within 365 days); and for purposes of this clause, an individual shall be 'subject to subchapter III of chapter 83 of title 5, United States Code', only if such individual's pay is subject to deductions and contributions (concurrent with the performance of the service) under section 8334(a) of such title 5, or such individual is receiving an annuity from the Civil Service Retirement and Disability Fund (for service as an employee);".

(2) Clause (v) of section 3121(b)(5) of the Internal Revenue Code of 1954 is amended to read as follows:

"(v) any other service in the legislative branch of the Federal Government if such service (I) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, on December 31, 1983, or (II) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or (III) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, or does not have an application pending for coverage under such subchapter, for any period of time after December 31, 1983, while performing service in the legislative branch of the Federal Government (determined without regard to the provisions of subparagraph (B) relating to continuity of employment for individuals who return to service within 365 days); and for purposes of this clause, an individual shall be 'subject to subchapter III of chapter 83 of title 5, United States Code', only if such individual's pay is subject to deductions and contributions (concurrent with the performance of the service) under section 8334(a) of such title 5, or such individual is receiving an annuity from the Civil Service Retirement and Disability Fund (for service as an employee);".

(b) Except as otherwise provided in subsection (d), the amendments made by subsection (a) shall be effective with respect to service performed after December 31, 1983.

(c) For purposes of section 210(a)(5)(v) of the Social Security Act and section 3121(b)(5)(v) of the Internal Revenue Code of 1954, an individual shall not be considered to be subject to subchapter III of chapter 83 of title 5, United States Code, if he is contributing a reduced amount by reason of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

(d)(1) Any individual who—

(A) was performing service in the employ of the United States (or an instrumentality thereof) and was subject to subchapter III of chapter 83 of title 5, United States Code, on December 31, 1983 (as determined for purposes of section 210(a)(5)(v) of the Social Security Act), and

(B)(i) received a lump-sum payment under section 8342(a) of such title 5 after December 31, 1983, and prior to the date of the enactment of this Act, or (ii) has otherwise ceased to be subject to subchapter III of chapter 83 of such title (or did not have an application pending for coverage under such subchapter) after December 31, 1983, and prior to the date of the enactment of this Act, for any service performed in the legislative branch,

shall, if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or applies for coverage under such subchapter) within 30 days after the date of the enactment of this Act, requalify for the exemption from social security coverage and taxes under section 210(a)(5) of the Social Security Act and section 3121(b)(5) of the Internal Revenue Code of 1954 for service in the legislative branch of the Federal Government performed after again becoming subject to such subchapter, as if such cessation of coverage under title 5 had not occurred.

(2) An individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) who is not in the employ of the United States or an instrumentality thereof on the date of the enactment of this Act may requalify for such exemptions in the same manner as under paragraph (1) if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or applies for coverage under such subchapter) within 30 days after the date on which he first returns to service in the legislative branch after such date of enactment, if such date (on which he returns to service) is within 365 days after he was last in the employ of the United States or an instrumentality thereof.

(3) If an individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) does not again become subject to subchapter III of chapter 83 of title 5 (or apply for coverage under such subchapter) within the relevant 30-day period as provided in paragraph (1) or (2), social security coverage and taxes by reason of section 210(a)(5)(v) of the Social Security Act and section 3121(b)(5)(v) of the Internal Revenue Code of 1954 shall, with respect to such individual's service in the legislative branch of the Federal Government, become effective with the first month beginning after such 30-day period.

(4) The provisions of paragraphs (1) and (2) shall apply only for purposes of reestablishing an exemption from social security coverage and taxes, and do not affect the amount of service to be credited to an individual for purposes of title 5, United States Code.

EMPLOYEES OF NONPROFIT ORGANIZATIONS WHO ARE REQUIRED TO PARTICIPATE IN THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 983. (a) For purposes of section 210(a)(5) of the Social Security Act (as in effect in January 1983 and as in effect on and after January 1, 1984) and section 3121(b)(5) of the Internal Revenue Code of 1954 (as so in effect), service performed in the employ of a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954 by an employee who is required by law to be subject to subchapter III of chapter 83 of title 5, United States Code, with respect to such service, shall be considered to be service performed in the employ of an instrumentality of the United States.

(b) For purposes of section 203 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, service described in subsection (a) which is also "employment" for purposes of title II of the Social Security Act, shall be considered to be "covered service".

(c) The provisions of this section shall apply to service performed on and after January 1, 1984.

OTHER TECHNICAL CORRECTIONS TO TITLE II OF THE SOCIAL SECURITY ACT AND THE INTERNAL REVENUE CODE NECESSITATED BY THE SOCIAL SECURITY AMENDMENTS OF 1983

SEC. 984. (a) Section 201(l)(3)(B)(i) of the Social Security Act is amended by inserting "Insurance" after "Survivors".

(b)(1) Section 202(c)(1) of such Act is amended (in the matter appearing between subparagraphs (D) and (E) of such section)—

(A) by striking out all that follows "has attained" and precedes ", the first month" in clause (i) and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(B) by striking out all that follows "has not attained" and precedes ", or" in clause

(ii)(I) and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(C) by striking out "to which" in the matter following clause (ii) and inserting in lieu thereof "in which".

(2) Section 202(c)(5)(A) of such Act is amended by striking out "classes (i) and (ii)" and inserting in lieu thereof "clauses (i) and (ii)".

(c)(1) Section 202(e)(2)(A) of such Act is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (7)".

(2) Section 202(e)(2)(C) of such Act is amended—

(A) by striking out the period immediately after "deceased individual"; and

(B) by inserting a closing parenthesis after "paragraph (3) of such subsection (w)".

(3) Section 202(e)(7) of such Act is amended by striking out "paragraph (2)(B)" and inserting in lieu thereof "paragraph (2)(D)".

(d)(1) Section 202(f)(1)(C)(ii) of such Act is amended by striking out all that follows "attained" and precedes ", and" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

(2) Section 202(f)(2)(A) of such Act is amended by striking out "paragraph (3)(B)" and inserting in lieu thereof "paragraph (3)(D)".

(3) Section 202(f)(3)(C) of such Act is amended by striking out the period immediately after "deceased individual".

(e) Section 202(q)(9)(B)(i) of such Act is amended by striking out "section 216(a)" and inserting in lieu thereof "section 216(l)".

(f) Section 202(x) of such Act is amended by adding at the beginning thereof the following heading:

"Limitation on Payments to Prisoners".

(g)(1) Section 203(d) of such Act is amended—

(A) by striking out "on seven or more different calendar days of which he engaged" in paragraph (1)(A) and inserting in lieu thereof "for more than forty-five hours of which such individual engaged"; and

(B) by striking out "on seven or more different calendar days" in paragraph (2) and inserting in lieu thereof "for more than forty-five hours".

(2) The amendments made by paragraph (1) shall apply only with respect to months beginning with the second month after the month in which this Act is enacted.

(3) Paragraphs (3) and (8)(D) of section 203(f) of such Act are each amended by striking out "who has attained retirement age" and inserting in lieu thereof in each instance "who has attained the retirement age applicable for old-age insurance benefits".

(h) Section 205(r) of such Act is amended—

(1) by striking out "(r)(3)(A) and (r)(3)(B)" in paragraph (4) and inserting in lieu thereof "subparagraphs (A) and (B) of paragraph (3)";

(2) by striking out "the Act" in paragraph (7) and inserting in lieu thereof "this Act"; and

(3) by striking out the heading and inserting in lieu thereof the following:

"Use of Death Certificates to Correct Program Information".

(i) Section 209(e) of such Act is amended by striking out the semicolon after "Act of 1974".

(j)(1) Section 215(a)(7)(B)(ii)(I) of the Social Security Act is amended by striking out "who initially become eligible for old-age or disability insurance benefits" and inserting in lieu thereof "who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62)".

(2) Section 215(a)(7)(C)(ii) of such Act is amended by striking out "survivors" and inserting in lieu thereof "survivor's".

(3) Section 215(f)(9)(B)(i) of such Act is amended by striking out "as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5)" and inserting in lieu thereof "as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(5)".

(4) Section 215(i)(5)(A) of such Act is amended by adding at the end thereof the following new sentence: "Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.".

(5) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent),";

(B) by striking out "ending with such subsequent calendar year" in clauses (iv) and (v) and inserting in lieu thereof "ending with the year before such subsequent calendar year"; and

(C) by striking out "initially became eligible for an old-age or disability insurance benefit" in clause (v) and inserting in lieu thereof "became eligible (as defined in subsection (a)(3)(B)) for the old-age or disability insurance benefit that is being increased under this subsection".

(k)(1) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (C) of section 202(c)(1), a divorced husband shall be deemed not to be married throughout the month in which he becomes divorced.".

(2) Section 216(h)(3)(A)(i) of such Act is amended by striking out "(as defined in section 216(l))" and inserting in lieu thereof "(as defined in subsection (l))".

(3) Section 216(i)(2) of such Act is amended by striking out "(as defined in section 216(l))" in subparagraphs (B) and (D) and inserting in lieu thereof "(as defined in subsection (l))".

(l) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.

(m) Section 229(b) of such Act is amended by adding at the end thereof the following new sentence: "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1983 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred.".

TECHNICAL CORRECTIONS TO THE SOCIAL SECURITY AMENDMENTS OF 1983

SEC. 985. (a) Section 101(d) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "remuneration paid" and inserting in lieu thereof "service performed".

(b) Section 112(f) of such Amendments is amended by inserting "of such Act" after "section 201(a)".

(c) Section 201(c) of such Amendments is amended—

(1) by inserting "the" immediately before "age of 65" in paragraph (1); and

(2) by inserting "the" immediately before "age of sixty-five" in paragraph (3).

(d) Section 301(a)(5) of such Amendments is amended by striking out "Section 202(c)" and inserting in lieu thereof "Effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985), section 202(c)".

(e) Section 305(d)(2) of such Amendments is amended by inserting "each place it appears" immediately before "in subsection (c)(4)(C)".

(f) Section 339(b) of such amendments is amended to read as follows:

"(b) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

" '(h) For provisions relating to limitation on payments to prisoners, see section 202(x).'.".

(g) Section 111(e) of such Amendments is amended by inserting "Budget" before "Reconciliation".

SUBTITLE D—IMPLEMENTATION OF GRACE COMMISSION RECOMMENDATIONS

INCOME AND ELIGIBILITY VERIFICATION PROCEDURES

SEC. 991. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCOME AND ELIGIBILITY VERIFICATION SYSTEM

"SEC. 1136. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which—

"(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

"(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of the Internal Revenue Code of 1954, wage information reported pursuant to paragraph (3) of this subsection, and wage, income and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(l)(7) of such Code, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b), as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor);

"(3) employers in such State are required to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

"(4) the State agencies administering the programs listed in subsection (b) adhere to standardized formats and procedures established by the Secretary of Health and Human Services under which—

"(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

"(B) such information shall be made available to assist in the child support program under part D of title IV of this Act, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of this Act, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(l) of the Internal Revenue Code of 1954; and

"(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

"(5) adequate safeguards are in effect so as to assure that—

"(A) the information exchanged by the State agencies is made availabe only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(l) of the Internal Revenue Code is only exchanged with agencies authorized to receive such information under such section 6103(l); and

"(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or in the case of information released pursuant to section 6103(l) of the Internal Revenue Code of 1954, the Secretary of the Treasury; and

"(6) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

"(b) The programs which must participate in the income verification system are—

"(1) the aid to families with dependent children program under part A of title IV of this Act;

"(2) the medicaid program under title XIX of this Act;

"(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954; and

"(4) any State program under a plan approved under title I, X, XIV, or XVI of this Act.".

(b)(1) Section 402(a)(25) of the Social Security Act is amended to read as follows:

"(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act;".

(2) Section 402(a)(29) of such Act is repealed.

(3) Section 411 of such Act is repealed.

(c) Section 1902(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(e) Section 2(a) of the Social Security Act is amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(f) Section 1002(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (12); and

(2) by inserting before the period at the end thereof the following: "; and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act".

(g) Section 1402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (11); and

(2) by inserting before the period at the end thereof the following: "; and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act".

(h) Section 1602(a) of the Social Security Act (as in effect with respect to Puerto Rico, Guam, and the Virgin Islands) is amended—

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1136 of this Act.".

(i) Section 1631(e)(1)(B) of the Social Security Act is amended by adding at the end thereof the following: "For this purpose, the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1136 of this Act.".

(j)(1) Section 6103(l)(7) of the Internal Revenue Code of 1954 is amended to read as follows:

"(7) Disclosure of return information to Federal, State, and local agencies administering certain programs under the Social Security Act or the Food Stamp Act of 1977.—

"(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

"(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

"(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act;

"(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act;

"(iii) supplemental security income benefits provided under title XVI of the Social Security Act;

"(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

"(v) unemployment compensation provided under a State law described in section 3304 of this Code; and

"(vi) assistance provided under the Food Stamp Act of 1977.".

(2) Section 6103(a)(2) of such Code is amended by striking out "or of any local child support enforcement agency" and inserting in lieu thereof ", any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D)".

(k)(1) The amendments made by subsections (i) and (j) shall become effective on the date of the enactment of this Act.

(2) The amendments made by subsections (a) through (h) shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program or the wage reporting requirements, the Secretary of Labor) may by waiver grant a delay in the effective date of such subsections, but such waiver

may not delay the effective date beyond September 30, 1986.

COLLECTION AND DEPOSIT OF PAYMENTS TO EXECUTIVE AGENCIES

SEC. 992. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3720. Collection of payments

"(a) Each head of an executive agency shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

"(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

"(c) There is established in the Treasury of the United States a revolving fund to be known as the 'Cash Management Improvements Fund'. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3720. Collection of payments.".

(3) The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.

(b)(1) Subsection (c) of section 3302 of title 31, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out ", but not later than the 30th day after the custodian receives the money,";

(C) by inserting after the first sentence the following new sentence: "Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money."; and

(D) by adding at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).".

(2) The amendments made by this subsection shall become effective January 1, 1985.

COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES

SEC. 993. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3721. Reduction of tax refund by amount of debt

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any OASDI overpayment and past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.

"(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

"(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

"(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

"(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable; and

"(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts to obtain payment of such debt.

"(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

"(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

"(f) For purposes of this section—

"(1) the term "Federal agency" means a department, agency, or instrumentality of the United States and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

"(2) the term "past-due support" means any delinquency subject to section 464 of the Social Security Act; and

"(3) the term "OASDI overpayment" means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3721. Reduction of tax refund by amount of debt.".

(b)(1) Section 6402 of the Internal Revenue Code of 1954 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsections:

"(d) COLLECTION OF DEBTS OWED TO FEDERAL AGENCIES.—

"(1) IN GENERAL.—Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than any OASDI overpayment and past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

"(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

"(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

"(3) DEFINITIONS.—For purposes of this subsection the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.

"(e) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c) or (d). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency to which the amount of such reduction was paid.

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is

defined in section 103 of title 5, United States Code).

"(g) CROSS REFERENCE.—For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.".

(2) Subsection (a) of section 6402 of such Code is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (d)".

(3)(A) Subsection (l) of section 6103 of such Code (relating to confidentiality and disclosure of returns and information) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402(d)—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)—

"(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

"(ii) the amount of such reduction; and

"(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d).".

(B)(i) Section 6103(p)(3)(A) of such Code (relating to procedure and recordkeeping) is amended by striking out "(l)(1), (4)(B), (5), (7), or (8)" and inserting in lieu thereof "(l)(1), (4)(B), (5), (7), (8), or (9)".

(ii) Section 6103(p)(4) of such Code is amended by striking out "(l)(1), (2), or (5)" and inserting in lieu thereof "(l)(1), (2), (5), or (9)".

(iii) Section 6103(p)(4)(F)(ii) of such Code is amended by striking out "(l)(1), (2), (3), or (5)" and inserting in lieu thereof "(l)(1), (2), (3), (5), or (9)".

(4) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by striking out "(l)(6), (7), or (8)" and inserting in lieu thereof "(l)(6), (7), (8), or (9)".

(c) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1988.

SUBTITLE E—CERTAIN PROVISIONS RELATING TO PUERTO RICO AND THE VIRGIN ISLANDS

CLARIFICATION OF DEFINITION OF ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS

SEC. 996. (a) Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(d) ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.—For purposes of subsections (a)(3), (b)(3), and (c)(1), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.".

(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to articles brought into the United States on or after February 28, 1984.

(2)(A) Subject to the limitations of subparagraphs (B) and (C), the amendment made by subsection (a) shall not apply with respect to articles brought into the United States from Puerto Rico after February 28, 1984, and before July 1, 1984.

(B) In the case of articles containing distilled spirits brought into the United States from Puerto Rico after February 28, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

(i) $130,000,000, over,

(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1954 with respect to articles (other than rum) which were brought into the United States after June 30, 1983, and before February 29, 1984, and which would not meet the requirements of section 7652(d)(1) of such Code.

(C)(i) Subparagraph (A) shall not apply with respect to any article if the Secretary determines that an amount in excess of transportation costs was provided by Puerto Rico directly or indirectly to a distiller located in the United States with respect to such article.

(ii) For purposes of this subparagraph, the term "transportation costs" means reimbursement for direct costs of transportation to and from Puerto Rico with respect to any article containing distilled spirits.

LIMITATION ON TRANSFERS OF EXCISE TAX REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 997. (a) Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON COVER OVER OF TAX ON DISTILLED SPIRITS.—For purposes of this section, with respect to taxes collected under section 5001 on all distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of—

"(1) $10.50, or

"(2) the tax imposed under section 5001(a)(1),

on each proof gallon.".

(b) The amendment made by this section shall apply to articles containing distilled spirits brought into the United States after December 31, 1984.

NOTICES OF HEARINGS

SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Subcommittee on Labor will hold additional oversight hearings on May 21 and June 5 to discuss occupational disease. The first two hearings are scheduled for April 24 and April 30. The hearings on May 21 and June 5 will begin at 9:30 a.m. in room 430 of the Dirksen Senate Office Building. Persons wishing to testify should submit a written request to Chairman DON NICKLES, Subcommittee on Labor, 428 Dirksen Senate Office Building, Washington, D.C. 20510, by April 17. If you have any questions concerning the hearing, please contact Rick Lawson, on the subcommittee staff, at 202-224-5546.

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES

Mr. PERCY. Mr. President, the Subcommittee on Energy, Nuclear Proliferation and Government Processes of the Committee on Governmental Affairs, will hold a hearing at 10 a.m. on Thursday, April 12, 1984 in room SD-342 of the Dirksen Senate Office Building. The subcommittee will be receiving testimony regarding oversight of the National Health Corps scholarship collections.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 15, at 11 a.m., to hold an oversight hearing on the report of the Commission on Fair Market Value Policy for Federal Coal Leasing.

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

SUBCOMMITTEE ON BUDGET AUTHORIZATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Budget Authorization of the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 5, to meet in closed session for the purpose of marking up legislation for the fiscal year 1985 intelligence budget.

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

SUBCOMMITTEE ON SOIL AND WATER CONSERVATION, FORESTRY, AND ENVIRONMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Soil and Water Conservation, Forestry, and Environment, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, April 5, to hold a hearing on S. 1842 and H.R. 3903, bills to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural program in the Colorado River Basin.

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

SUBCOMMITTEE ON FAMILY AND HUMAN SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Family and Human Services, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, April 5, at 10 a.m., to hold a hearing on the reauthorization of title X of the Public Health Service Act.

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

SUBCOMMITTEE ON SEA POWER AND FORCE PROJECTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Sea Power and Force Projection, of the Committee on Armed Services, be authorized to meet during the session of the Senate on Thursday, April 5, at 9:30 a.m., to hold a hearing to receive testimony on U.S. naval shipbuilding and procurement programs in review of S. 2414, the fiscal year 1985 Department of Defense authorization bill.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be permitted to sit, notwithstanding the 2-hour limit, for the purpose of completion of a hearing on coal leasing.

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

ADDITIONAL STATEMENTS

THE ARMENIAN GENOCIDE

● Mr. D'AMATO. Mr. President, simple justice demands that we shed light on an event which resulted in the senseless slaughter of more than 1 million innocent men, women, and children—the Armenian genocide. Despite an impressive collection of documents which substantiate the systematic attempt by the Turks to eliminate the Armenian race, considerable ignorance continues to cloud this tragic episode.

The Armenian people, who trace their roots back to Noah, settled in the territory around the Caucasus Mountains and the Mediterranean coastal area of present day Syria. During the fourth century, they became the first nation to embrace Christianity. Because of its strategic location, Armenia was subject to frequent invasion and the Armenian people were forced to comply with repressive policies pursued by the Turkish Empire. During a single year of the regime of Sultan Abdul Hamid II, more than 300,000 Armenians perished. But the worst was yet to come.

In June 1915, the Turks announced a deportation policy to relocate the Armenian population. Turkish authorities forced Armenians to march from the Anatolian highlands to the desert region of eastern Syria.

The decision to undertake this genocide was a conscious one. In 1915, Talaat Pasha, the Turkish Interior Minister, stated that the Government had decided to "destroy completely all Armenians living in Turkey." He further indicated that "an end must be put to their existence, however criminal the measures taken may be, and no regard must be paid to age, or sex, or to scruples of conscience."

Regrettably, this policy was enthusiastically pursued by the Turks. Entire communities were herded aboard ships, then drowned at sea. Babies were thrown alive into pits and covered with stones. Between 1915 and 1917, more than 1 million Armenians were forced to leave their homes and march hundreds of miles, while being denied food supplies and water. Nearly half died during the march. Those remaining often died of starvation. In all, more than 2 million people were affected by the deportation policy.

As U.S. Ambassador Henry Morgenthau, who served in Turkey from 1913-16, observed:

> Homes were literally uprooted; families were separated; men killed, women and girls violated daily on the way or taken to harems. Children were thrown into the rivers or sold to strangers by their mothers to save them from starvation. The facts contained in the reports received at the Embassy from absolutely trustworthy eyewitnesses surpass the most beastly and diabolical cruelties ever before perpetrated or imagined in the history of the world. The Turkish authorities had stopped all communication between the provinces and the capital in the naive belief that they could consummate this crime of ages before the outside world could hear of it. But the information filtered through the Consuls, missionaries, foreign travelers and even Turks.
>
> When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrants to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact.

Those who survived the genocide fled throughout the world. Many traveled to parts of the Middle East, Western Europe, and the United States. Others joined Armenians in the U.S.S.R., where they founded an independent Armenian Republic in 1918. Unfortunately, the Armenian people were soon subjected to tyranny by the Soviet regime.

Despite persecution by the Turks, the Soviets, and others, the Armenian people have retained their rich cultural identity and their love of freedom. Today, there are more than 675,000 Armenians living in the United States, many of whom had family members who perished in the Armenian genocide. We owe it to the more than 1 million innocent men, women, and children who were exterminated by the Turks to pursue the truth regarding the Armenian genocide and to expose those responsible for this crime against humanity.●

THE SEMICONDUCTOR CHIP PROTECTION ACT OF 1984

● Mr. LEAHY. Mr. President, America has always thrived on innovation, and I am happy to say that the Judiciary Committee is acting today to spur on that innovative spirit. In reporting S. 1201, the Semiconductor Chip Protection Act of 1984, we are saying that Congress is willing to match the scientific and technical innovation of our people with strong and innovative legal protections.

The issues we faced in the bill were formidable: If we failed to provide meaningful protection for those investing millions of dollars each year in the microchips that lie at the heart of the worldwide computer revolution, we risked falling far behind our international competitors. If we ended up with protection that was too broad, we stifled the use of knowhow that should be available to everyone.

Defining a clear line between these two extremes in a field that is close to brand new has been a great challenge. My impression, when I first reviewed this legislation many months ago, was that its effect might have been to retard, rather than spur, innovation. Approaching the legislation as a lawyer, I saw some potential for tying up essential design features and denying their use to future inventors. Frankly, part of my concern was that, given the complexity of the problem and the lack of clear precedents in analogous areas of the copyright law, the prospect of excessive litigation would dampen incentive.

But these concerns did not lessen our enthusiasm for the underlying purposes of the bill, which are so important to this country's competitive future. Senator MATHIAS and I and our staffs decided that no drafting problem could be allowed to stand in the way of an effective bill, and we put a lot of effort, not only in the bill language itself, but in the committee report. In a field that is so new, clear report language is especially important, and I think the many hours and days improving the report were very well spent.

As a result, both the language of the bill and the report offer abundant guidance to industry experts, to attorneys, and to the courts as to what constitutes an infringement and other related issues. No practitioner should be at a loss in building a case that a product resulted from reverse engineering, as opposed to copying. Similarly, opposing counsel should have a clear idea of how to prove infringement—the kinds of evidence needed, the degree of proof, and the key matters at issue.

I am convinced that the bill, as now written, will not result in undue litigation. It will serve as a guide to industry as to the extent of an innovator's reasonable expectations, and in that sense, the bill should help to avoid an undue reliance on the courts to settle questions relating to potential infringement.

Mr. President, I am proud to be a cosponsor of this important bill, and I

hope that the full Senate will soon have the opportunity to consider it fully. I know my colleagues share my sentiments about the need for innovation. Passage of this legislation in this session would be a strong sign that we are willing to back our sentiments with action.●

FEDERAL CHARTER FOR VIETNAM VETERANS OF AMERICA, INC.

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of S. 2266, which expresses the sense of the Senate that a Federal charter should be granted to Vietnam Veterans of America, Inc. I ask that you join with me in support of this measure.

The Vietnam Veterans of America is a nonprofit national service organization devoted to the welfare of Vietnam and other veterans. Since its founding in 1978, the VVA has addressed the issues that face Vietnam veterans, including readjustment, employment and economic assistance, adequacy of GI bill benefits, VA health care programs, agent orange, and posttraumatic stress disorder. Acting as a catalyst on major legislative issues, the VVA has promoted the recognition of Vietnam veterans as a valued and valuable national resource for America.

Representing a wide spectrum of Americans, the Vietnam Veterans of America seek to accomplish several tasks. One is to provide a structure and process through which Vietnam veterans can develop positive identification with their Vietnam service and with those who served with them. A second is to deal with the physical, psychological, and economic consequences of the war for individual veterans. A third is to seek basic reforms in the Government and private institutions that have a major impact on the lives of veterans.

The organization's claims service department has developed and distributed a comprehensive claims manual for use by its service officers and others involved in assisting Vietnam veterans. Moreover, the VVA has joined in the fight to seek judicial review of the Veterans' Administration's decisions denying veterans' benefit claims. The organization has also contributed to efforts to promote employment opportunities for Vietnam veterans and to heighten recognition of the needs of women, minority groups, and incarcerated Vietnam veterans.

Mr. President, I urge my colleagues to recognize this organization's great record of service to this country by granting it the Federal charter which it seeks. I ask for your support of S. 2266 which will grant the Vietnam Veterans of America this charter.●

REAUTHORIZATION OF THE LIBRARY SERVICES AND CONSTRUCTION ACT

● Mr. QUAYLE. Mr. President, I am pleased to cosponsor along with my good friend from Vermont, Mr. STAFFORD, a bill to reauthorize the Library Services and Construction Act (LSCA) for fiscal years 1985–89 (S. 2490). This act has provided library services to millions of Americans over the years and continues to provide a valuable service by supporting programs to improve library services to the elderly, the handicapped, the institutionalized, the rural, and the illiterate. LSCA also provides support for major urban libraries which provide valuable community services as well as resources for other, smaller libraries.

Additionally, LSCA has been instrumental in encouraging networking and resource-sharing among all types of libraries throughout the country. LSCA has been the impetus and oftentimes supplied the start-up funding to establish these statewide and regional networks.

For example, in Indiana, LSCA funds were used to create a statewide network, the Indiana Cooperative Library Services Authority (INCOLSA). INCOLSA is mostly supported by State funds now, but without help from LSCA to bring everyone together, design a system and provide training, the network probably would not exist today. INCOLSA continues to receive some support from LSCA for a model project to train library personnel in new national cataloging formats and to help still isolated libraries join the State network and, ultimately, regional and national networks and online information retrieval systems.

Resource-sharing among libraries is the future. Libraries cannot afford to purchase printed material as they did 20 or even 10 years ago. Books are now a valuable commodity and often, for a rural library, sharing is the way to access them. Also, information is quickly becoming computerized and access must come through computerized networks. This reauthorization bill seeks to enhance these resource-sharing and networking activities of the public libraries with all types of libraries. We are putting an increased emphasis on resource-sharing in title III of LSCA, so that States can develop their network plans and ultimately increase and improve user access to information.

This reauthorization bill aslo continues to stress the importance of the extension of library services to certain populations, such as the elderly and native Americans. In current law, a separate program (title IV) to provide library services to older Americans has been authorized, but never funded. Older Americans, however, are currently receiving services under the title I grant program and they will continue to receive such services. Since title IV has never been funded, this new bill emphasizes the needs of older American readers in the basic State program, which is funded and which will continue to receive funds.

In place of the old title IV, this bill would insert a new program for library services to Indian tribes. Different from older Americans who are receiving services under the act now, Indian tribes receive almost no funds under LSCA because of their unique status as separate nations under the law. The new title IV would allocate 1 percent of what is appropriated under LSCA for Indian tribes to improve and expand library services for Indians living on or near reservations. Specifically, Indian tribes could use LSCA funds for training library personnel, salaries for library personnel, purchase of library materials, purchase, renovation, or remodeling of library facilities, dissemination of information about library services, and special library programs for Indians.

The bill also makes several changes to title II, which funds construction and renovation of libraries. While title II has not been funded on its own in past years, it did receive an allocation of $50 million under the emergency jobs bill of 183. For that reason it is important to keep title II authorized. The bill also requires that the State or locality provide two-thirds of the cost of a construction project and that if a library built with LSCA funds fails to be used as a library within 20 years of its construction, the Federal Government can recover the amount of its original grant.

The bill also expands the role of libraries into community information referral centers, to provide readily available sources of information or referral to other sources of information. Libraries will be able to provide a critical service to all individuals by helping them to find and sort the growing amounts of information confronting us daily.

In S. 2490, I believe we have provided States and libraries with the flexibility necessary to meet the needs of special populations and to expand their networking and resource-sharing efforts. LSCA has always been heralded as an extremely successful law, allowing States to design programs to serve their unique needs. This bill preserves this flexibility.

While I am extremely supportive of the programmatic changes to LSCA contained in S. 2490, I must express my concern over the authorization levels included in the bill. The current funding level of $130 million (including title II construction funds) grows to $143 million in fiscal year 1985 and up to $175 million in fiscal year 1989. Libraries are important to our citizens; however, with the Federal deficit as

high as it is, I cannot commit myself to the authorization levels specified in the bill. Apart from this issue, I am very pleased with the reauthorization bill as drafted by Senator STAFFORD.

This reauthorization proposal updates LSCA to meet the challenges of an information society and to insure that this increasingly important information is available to all Americans, regardless of their geographic location, reading ability, handicap, age, or income level. Libraries truly serve all Americans.

I urge my colleagues to support this bill to reauthorize the Library Services and Construction Act.●

IN RECOGNITION OF ROY MOGER

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Mr. Roy Moger, a man who has done a great deal to help the people of Roslyn, N.Y., better appreciate the heritage of their area and their native State.

In January 1974, Roy Moger convened the first meeting of the Greater Roslyn American Bicentennial Commission. Within 6 months, the commission had grown to include members from local schools, colleges, and other local civic and historic organizations. Under Chairman Moger's guidance, the commission sponsored a number of programs and projects, including the flag program and Independence Day committees, which Roy Moger headed himself. The number of people working on projects associated with the commission grew into the hundreds, all coordinated and organized by Chairman Moger. The commission and its committees were busy year round for a decade, sponsoring celebrations of the heritage of Greater Roslyn and New York State.

Roy Moger is a native of the village of Roslyn, and has spent half of his life in its service. He has served on, among others, the village planning board, the board of appeals, and the board of trustees, as well as serving as chairman of various organizations. Roy Moger has also written a number of articles on the history of Roslyn and the surrounding area, and has been a tour guide for various groups. Since his retirement as a teacher in the Roslyn public school system, he has continued to teach courses on local history in the adult education program.

The people of Roslyn and all of New York owe Roy Moger a debt of gratitude for his selfless devotion to local needs. He has worked hard to keep alive our past, so that we may all learn from it and celebrate it. I would like to join with the people of Roslyn in thanking Roy Moger for his dedicated work as the bicentennial celebration comes to a successful conclusion. I wish him the best of luck in all his future projects.●

SHATTERING OF BIPARTISAN CONSENSUS ON U.S. FOREIGN POLICY

● Mr. WALLOP. Mr. President, the days are not so long past when this Nation's foreign policy was noted for its bipartisan consensus. Leaders of both parties agreed on the need for U.S. leadership internationally—for strong commitments to our allies—and on the need for a reasonable, sensible balance in the exercise of U.S. military and diplomatic might.

But today, the party of Roosevelt and Truman, John Kennedy and Scoop Jackson has shattered that consensus—perhaps irrevocably. Today the Presidential candidates of that party displace tough talk with sermonettes on peace and human rights, and eschew the exercise of American power in favor of unilateral withdrawal and the systematic dismantling of our forces in the name of military reform.

In debates, none would commit to defending our NATO treaty allies, or even Mexico on our own southern border, in the event of Communist attacks. All decried the peacekeeping force in Lebanon, the invasion of Grenada, support of the duly elected Government of El Salvador, and covert aid to the anti-Sandinista rebels in Nicaragua. Listening to them, one would begin to wonder whether any legitimate use remains of American force or military aid as a means of defending America or her allies.

This seriously limited and seriously flawed view of the appropriate use of U.S. power and influence, I am afraid, is the result of a seriously limited and seriously flawed view of what the world is like. For example, our colleague, the gentleman from Colorado, has made a number of statements about our foes and allies alike which strike one as remarkably unsophisticated for a 9-year Senate veteran who would like to lead the world's greatest superpower.

In a 1982 Washington Post interview, the gentleman from Colorado said that Cuba was not a totalitarian country, and attempted to differentiate between Soviet and Cuban backing of subversion in Latin American democracies. He had called for a total withdrawal of the hundreds of U.S. military personnel in El Salvador—actually, there are 55 military advisers—and naively suggests sending in unprotected U.S. doctors, nurses, and teachers to help the Salvadorans fight off a vicious and murderous Communist onslaught.

And in a statement that surprised even those who shared his philosophy, HART charged that the late Nicaraguan leader Anastasio Somozoa had fed political prisoners to panthers in his basement.

As political commentator Morton Kondracke pointed out in a recent article in the New Republic:

> Someone who believes such things about a ruler propped up by both Republican and Democratic administrations for 20 years might well demand a "fresh start" in U.S. foreign policy and might well declare ringingly that "American boys" should not be sent to serve as bodyguards for Latin American dictators.

After statements like these, it should come as a surprise to no one that the controlled Soviet press has annointed the Senator from Colorado as the peace-loving candidate and hinted that he was the Soviet favorite for our next President.

But the gentleman from Colorado is not alone in making these kinds of dangerous pronouncements about American foreign policy, which provide comfort to America's foes and sow confusion and concern among her friends.

Walter Mondale has joined Senator HART in rushing in where even the angels fear to tread. As an NBC report recently pointed out, both candidates have made a promise that "no Presidential candidate has heretofore dared to make." They have both promised to move the U.S. Embassy in Israel from Tel Aviv to Jerusalem.

As the report pointed out, this promise is already stirring up friendly, moderate Arab nations. Fulfilling it could lead to sanctions by Arab nations—including another oil embargo. It could also lead to attacks on our Embassies in other countries, reminiscent of the assaults in Iran, Afghanistan, Pakistan, and Lebanon.

And it would surely destroy whatever remains of the Camp David accords. Mondale—who loves to repeat Menachem Begin's description of him as the "spirit of Camp David"—should know that Camp David leaves the Jerusalem question to an overall peace settlement.

There must be a limit to the Democratic candidates' divergence from the traditional, bipartisan consensus on foreign policy. And there must be a limit to the extent to which they will undercut the President's conduct of foreign policy, endangering our interests and our national security, in their quest for their party's nomination.

But if there is such a limit, there is no sign that it has been reached—or will be any time soon. Thank goodness that there is a time limit on this activity—next November 6.

Mr. President, I ask that the New Republic article be printed in the RECORD.

The article follows:

HART LINE, SOFT LINE

It may help explain where Senator Gary Hart is coming from on the issue of Central America to know the image that he carries

in his head about America's onetime ally, the late Nicaraguan dictator Anastasio Somoza Debayle. In an interview aboard his campaign plane, Hart said, "I don't know if this is public information, but in the basement of his presidential palace Somoza kept cages with panthers inside. After dinner for the entertainment of his guests, he would go downstairs and have a political opponent thrown in there with the panthers." Someone who believes such things about a ruler propped up by both Republican and Democratic Administrations for twenty years might well demand a "fresh start" in U.S. foreign policy and might well declare ringingly that Americans boys "should not be sent to serve as bodyguards for Latin American dictators."

The only trouble is, such experts on Nicaragua as former U.S. Ambassador Lawrence Pezzullo, and even such ex-supporters of the Sandinista government as Arturo Cruz Jr. and Alfonso Robelo, say that Hart's image of Somoza is mistaken. "I never heard of such a thing," said Pezzullo, the Carter Administration ambassador fired by President Reagan. "That's incredible, just way off. Even the Sandinistas have never accused Somoza of that." No one is about to defend Somoza—a corrupt, greedy, and ultimately brutal man. "Somoza had some people tortured," said Pezzullo, "including Tomas Borge," the current Sandinista security chief. "But the Somoza regime until 1978 was not that bloody. It was not known for having hundreds of political prisoners or disappearances. There were cases, but most of them lived to tell about it, like Borge. You can fault Somoza for a lot of things, but not that."

According to Cruz and Robelo, now supporters of the insurgent Democratic Revolutionary Alliance (ARDE), headed by the legendary Edén Pastora ("Comandante Cero"), Hart's picture of Somoza as an Idi Amin-style butcher is a garbled version of an event that did take place during the rule of Somoza's father, also named Anastasio. That Somoza once jailed Pedro Joaquín Chomorro—the crusading editor of La Prensa whose murder in 1978 set off the revolution that toppled the Somoza dynasty—and put him in a cage next to a cage containing a lion. "He was scared, but uninjured," said Cruz, recalling Chomorro's account of the incident in his book, Bloody Dynasty.

All experts on Nicaragua agree that after Chomorro's (still unsolved) murder, when rebellion against Somoza was rife, the dictator unleashed his National Guard, which went on a rampage of killing and bombing of villages. According to Robelo, "there is no question that if you compare the last five years of Somoza with the first five years of the Sandinistas from a human rights standpoint, Somoza was ten times worse. Thousands were killed in 1978 and 1979. But if you compare the first five years of Somoza with the first five years of the Sandinistas, the Sandinista human rights record is ten times worse. Today in Nicaragua, fifty or sixty or a hundred people disappear in a month. We don't know what happens to them. The difference between Nicaragua and El Salvador is that in El Salvador, the bodies show up. And in Nicaragua, when the Sandinistas met with massive resistance, as they did from the Miskito Indians, they reponded with massive repression, just like Somoza. They killed lots of people and destroyed village after village."

On examination, the history of Nicaragua is complicated—and so is the question of what America ought to do about revolution in Central America and other countries in the Third World. Such issues are not so complicated, however, for Gary Hart. His policy toward Central America basically is: out. In spite of the fact that Nicaragua is host to some eight thousand Cubans, including two thousand military advisers, plus several thousand others from Eastern Europe, Libya, North Korea, and the Palestine Liberation Organization, Hart opposes aid to guerrilla groups, including democratic ones like ARDE seeking to pressure or oust the Sandinistas. Hart has introduced a resolution in the Senate calling for immediate withdrawal of all U.S. military personnel from Central America without any compensating concessions from Cuba or the East bloc. And he favors cutting off aid to the government of El Salvador until it eliminates right-wing death squads, dismissing the possibility that it might lead to a victory by left-wing guerrillas or to a right-wing coup and a massacre of all opposition forces.

Hart's policies on Central America belatedly have become a major focus of debate in his contest with Walter Mondale for the Democratic Presidential nomination. In fact, the terms of the debate transcend Central America and cut to questions of whether the United States should use force to secure its interests in the world and whether the United States is a great power in the post-World War II sense of the term.

Mondale, after criticizing Hart from the left in earlier primaries, has suddenly rediscovered his roots in the postwar political tradition of Harry Truman and Hubert Humphrey. He says he concurs with Hart that U.S. forces in Honduras should be reduced. "But before I would withdraw all of them," he told the Chicago Council on Foreign Relations, "I would seek to negotiate with Nicaragua . . . at least three things—the removal of Cuban forces, an agreement not to introduce MiGs into the region, and agreement to a nonintervention policy throughout the isthmus."

Mondale observed that the Sandinistas have repressed domestic opposition, meddled in the affairs of neighboring countries, and embarked on a military buildup that has terrified other nations. "We have made mistakes in the past," he said in his Chicago speech. "But in a world where the enemies of freedom win power by force and maintain it by terror, a President can never rule without a firm response. Guilt is not a foreign policy, and the world is not a debating society. It is a tough, dangerous place, and anyone who views it otherwise will only make it more dangerous."

In reply, Hart accused Mondale of portraying communism as "the main threat" in Central America requiring a U.S. presence. "I say the principal threat is not communism, but poverty, and that the response must be cooperation with our allies to address the serious economic and social problems in the region. At the heart of this difference is, perhaps, the lesson of Vietnam. The commitment of U.S. military force cannot be the answer to the problems of Central America, as it was not the answer in Vietnam."

If Walter Mondale represents a generation that came of age after World War II, Hart represents the one whose chief formative experience was Vietnam. It is a generation that has no firsthand knowledge of U.S. military success, but only of failure, humiliation, and tragedy. The Vietnam generation has no memory of the Marshall Plan, bipartisan agreement on foreign policy, the Soviet capture of Eastern Europe, and aggression in North Korea. It has come to assume that the United States is more or less always on the wrong side of history—often the morally wrong side and always the losing side.

Through television, this generation has been sold—and has bought—an image of the John F. Kennedy Presidency as some sort of misty golden age, and Gary Hart does evoke Kennedy nostalgia. It's not just the Kennedyesque mannerisms he affects, either; in some ways he genuinely reflects Kennedy's idealism and vigorous spirit. After all, Hart first entered politics as a J.F.K. volunteer in 1960 and got his first government job in Robert Kennedy's Justice Department.

But in foreign policy, Hart is only half a Kennedy. He echoes that part of Kennedy which launched the Peace Corps and the Alliance for Progress, initiated nuclear arms talks with the Soviet Union, and caused the United States to be identified with peaceful change in the Third World. But another side of the Kennedy Presidency reflected an awareness that force remains an undeniable, if unpleasant, fact of life in the world. That side of John F. Kennedy launched a massive nuclear arms buildup in 1961, stared down the Soviets in the Cuban missile crisis, engaged in covert operations, supplied counterinsurgency training to friendly Third World governments, and sent U.S. advisers to Vietnam.

Some of Kennedy's actions obviously were terribly mistaken—the Bay of Pigs invasion, the assassination attempts against Fidel Castro, and acquiescence in the overthrow of Vietnam's President Diem are the worst examples—but even they serve to demonstrate that Kennedy was not averse to using force when he thought it necessary. The reputation for toughness which Kennedy earned helped make his diplomatic successes possible. It's doubtful that the Soviets would have agreed to ban atmospheric testing of nuclear weapons, for example, if the United States had not been testing such weapons itself. Kennedy was bullied and tongue-lashed by Khrushchev at Vienna, but after the Cuban missile crisis the Soviets agreed to negotiate seriously about arms limitation.

By contrast, Hart—along with Mondale and Jesse Jackson, to be sure—says that he favors mutual arms reductions with the Soviet Union, but would unilaterally give up the MX missile and possibly the D-5 missile for Trident submarines without even trying for compensating Soviet concessions, such as reductions in the Soviet Union's force of heavy land-based missiles. Hart said in Chicago that he would base U.S.-Soviet relations on the principle of "reciprocity" which he said "does not mean unilateral disarmament or one-sided concessions or the toleration of aggression." Rather, he said, "reciprocity is a two-person canoe. If one party refuses to get on or row, or insists on going his own way, it will not work. If one party attempts to block or deceive the other, he will be found out. But if both parties want it to work, it will move forward—slowly, at first, with some difficulty and disagreement—but we will go forward together and in peace."

That is a hopeful way of looking at U.S.-Soviet relations, Hart is proposing a "fresh start" with the Russians, ignoring the history of Soviet behavior and their hostility toward Western values. Invading Afghanistan, crushing Solidarity, and manufacturing biological weapons are not the actions of a partner who wants to row in the same di-

rection as the United States. In other speeches, Hart says that, like John F. Kennedy, he believes that the United States is engaged in a "long, twilight struggle" with the Soviet Union, but he claims that it can be conducted by political, diplomatic, and economic means alone. And when asked, Hart acknowledges that he does not plan to spend much money on foreign aid to the Third World—even in Central America, when he say poverty is the most important problem. Instead he favors extension of technical assistance, as if Peace Corpsmen were sufficient to combat terrorists and the K.G.B.

John F. Kennedy solidified the NATO alliance, but Hart's declaration that "not one American life would be put ashore in any Persian Gulf area" serves notice to the allies that the United States will offer only limited help in defending the oil sources on which they are almost totally dependent. In an interview aboard his campaign plane, Hart said he might consider using U.S. ground troops if the Soviet Union directly threatened to seize the Gulf, but not in the (more likely) event of internal insurgency or attack from Iran. He also said that he would defend Europe against a Soviet attack, but not its oil lines because "Europe is part of our vital national interest, but the Persian Gulf isn't." Such remarks serve as notice to moderate Arabs that the United States will not lift a finger to protect them if they get into trouble, thereby reducing U.S. diplomatic influence with them to zero.

One of the mysteries of Gary Hart's foreign policy is where his ideas come from. His Chicago speech reportedly was drafted by David Landau, his 30-year-old issues coordinator, with advice from Theodore Sorensen, Hart's campaign chairman and John Kennedy's former White House chief of staff. However, Hart aides say that Hart has no formal foreign policy adviser structure. Some of them say, in fact, that though he has thought intensively about such issues as energy independence, nuclear proliferation, arms control, and military reform, he has not devoted extensive attention to other foreign policy issues. "He's operating on instinct," one adviser said, "or really post-Vietnam reflex." According to aides, Hart's foremost foreign policy issues adviser is John Holum, a Washington lawyer who served as Senator George McGovern's legislative assistant and worker on the Policy Planning Staff in Jimmy Carter's State Department.

Others consulted by Hart on foreign issues are his former administrative assistant, Larry K. Smith, now at Harvard University's Center for Science and International Affairs; Richard Gardner, a former U.S. ambassador to Italy; Samuel R. Berger and Richard Feinberg, also former State Department policy planners under Carter; and former Secretary of State Cyrus Vance. Most Hart advisers seem to agree that if he became President there is a good chance that William J. Perry, the Pentagon's research chief under Carter, would become Secretary of Defense. Some say Sorensen might be Secretary of State and that former Deputy C.I.A. Director Bobby Inman, now in the electronics industry, would return as C.I.A. chief or as White House national security adviser.

Gary Hart is no unilateral disarmer, no deep cutter of the defense budget on the George McGovern model. Like John Kennedy, in fact, he favors retooling the military to make it better able to fight conventional wars rather than nuclear wars. Unlike Kennedy, however, Hart virtually announces to U.S. adversaries that those forces would be used only in the most unlikely contingencies—a Soviet attack on Europe, the Western Pacific, or the Western Hemisphere. He rules out the use of force in all the likelier places—the Persian Gulf, Lebanon, and Central America—and therefore invites dangerous challenges there, much as Dean Acheson did when he declared South Korea outside the U.S. defense perimeter.

Hart claims in his speeches that the American people simply will not stand for the lives of their sons to be lost in such places. If he is right—the 1984 elections will tell us—then it means that the United States has ceased to be the great power that it became under the great Democratic Presidencies of Woodrow Wilson, Franklin Roosevelt, and John Kennedy. Walter Mondale offers no guarantee that this tradition will be revived. Ronald Reagan has twisted the tradition into a caricature of John Foster Dulles. But if Gary Hart is elected and persists in the policies he now advocates, America will have come perilously close to declaring to the world that it is no longer prepared to bear the burdens necessary to ensure the survival of liberty.●

MICHIGAN COMMEMORATES THE 100TH ANNIVERSARY OF THE FIRST AMERICAN PLANTING OF GERMAN BROWN TROUT

● Mr. RIEGLE. Mr. President, on April 11, 1984, the people of the State of Michigan will recognize an important milestone in our country's angling history. On this date, Michigan will commemorate the first American planting of German brown trout in the Pere Marquette River 100 years ago, and, in doing so, will rededicate itself to the preservation of the Pere Marquette as America's premier brown trout stream. I rise today in honor of this historic occasion.

Typically, brown trout live in cold water streams and are thought of highly for their game qualities and beauty. The brown trout is indigenous to Europe but has been introduced to suitable habitats throughout the world.

The story of the brown trout's introduction to a branch of the Pere Marquette in northern Michigan is the history of its American origins as well. On February 18, 1883, a shipment of 5,000 eggs from Germany was received in Michigan at the Northville Federal Hatchery, and on April 11, 1884, 4,900 fry were planted in a branch of the Pere Marquette by the U.S. Fish Commission. This is believed to be the first stocking of brown trout in America. During the 100 years that have elapsed, brown trout have become established throughout the United States and have offered many hours of enjoyment to U.S. sport fishermen on the rivers and lakes of this country. Plantings of brown trout continue in marginal habitats and there are now widespread self-sustaining populations in favorable environments.

The brown trout is now one of the United States most highly esteemed sport fish and, in addition, is considered an excellent table fish. It attains a much larger growth than the species found in the United States, frequently reaching a weight of 10 to 20 pounds.

On April 11, the citizens of Baldwin, Mich., and other distinguished guests will commemorate this historic event. A historical marker will be placed near the Pere Marquette to mark the occasion.

I am pleased to be able to participate in the observation of this anniversary because I believe the heritage of this river should be preserved as we continue our efforts to protect and enhance the Pere Marquette itself as a vital State and national resource.●

SOCIAL SECURITY

● Mr. SYMMS. Mr. President, Congress has often been criticized for having vision no longer than the next election. With respect to reforming the social security system, there is amply evidence to justify that position.

One year ago, Congress rushed to "save the system" chiefly through tax increases rather than making genuine long-term structural reforms. It then relaxed, gratified that the crisis was over. But now evidence is accumulating that in 1983, Congress made long-term social security worse, just as it did when adopting changes in 1982 and 1977.

An insightful article on the current status of the social security trust funds was published last week by the Wall Street Journal. Written by a Senate staffer known to many on Capitol Hill, Stu Sweet, it makes two especially telling points.

First, Congress overreacted to the short-term crisis by raising more revenue than was needed to cover a temporary shortfall. According to the Congressional Budget Office and the Social Security Administration (SSA), there was likely to be at most a $75 billion shortfall between 1983 and 1990. Yet, Congress adopted a package that raised more than twice that amount. It did so by taking social security benefits for the first time, raising the tax rate on the self-employed, and accelerating tax rate increases already on the books. Some call this reform. I call this socking it to the middle class.

Second, and more dangerously for our children, the effect of these tax increases, in conjunction with other proposals, will be to build up a Federal surplus that is measured in the trillions of dollars. Even if the economy performs sluggishly, the surplus is projected to grow to over five times annual outgo according to SSA, reaching $23 trillion. Using less pessimistic assumptions, the surplus is projected

to be much higher. Yet, in today's terms a 5-year surplus equals $900 billion.

Such an embarrassment of riches presents a paradox. If a large surplus is allowed to accumulate, then the Federal Government will be forced into the investment banking business. And bureaucrats, rather than professional money managers, will decide what businesses receive loans needed to expand and who receives home mortgages. This is a recipe for socialism through the back door.

However, if a large surplus does not develop, then benefit promises to the large "baby boom" generation will be broken with little advance warning. This is a recipe for intergenerational warfare of unprecedented magnitude.

I believe Stu Sweet is right. We must not permit megasurpluses and megapromises to develop. For that reason, I will be introducing legislation in the near future that will reduce social security revenues and outlays to sustainable levels, eliminating the need for a large surplus.

Under my proposal, workers would be permitted to open tax-free retirement accounts in addition to Individual Retirement Accounts. Any deposits into such accounts would be tax deductible and earnings from such deposits would be tax exempt as long as they are not withdrawn. At the same time, workers who take advantage of this offer would agree to accept lower social security benefits when they retire.

Every time this offer is accepted, the amount of social security benefits that will have to be paid out in the 21st century will fall. Every time this offer is accepted, it will also make it possible and desirable to reduce the enormous surplus that awaits us in the next century by cutting social security tax rates now.

I believe that the legislation that I will be introducing will offer the Nation the best chance for avoiding all sorts of economic and political mischief. And I urge my colleagues to study the proposal that I will be offering because I believe that after it has been studied and adopted, we may be able to change our image of being a nearsighted institution seeking quick fixes.

Mr. President, I submit Mr. Sweet's article for the RECORD along with recent projections made by SSA's top actuary concerning the long-term health of the social security trust funds.

The material follows:

[From the Wall Street Journal, Mar. 28, 1984]

A LOOMING FEDERAL SURPLUS

(By Stuart J. Sweet)

Most Americans were relieved when Congress and President Reagan last year approved, with practically no change, the bipartisan plan submitted by the National Commission on Social Security Reform to "save the system." What they don't know is that the plan stands to lead to more sweeping changes in the American economy than if the South had won the Civil War. The cause for alarm is peculiar: For the next 40 years, the Social Security cash-benefits programs are too well funded.

Currently, the collective balances in the Old Age and Survivors (OAS) and the Disability Insurance (DI) trust funds are only $27 billion. However, the surplus is projected by actuaries of the Social Security Administration (SSA) to exceed $1 trillion before the beginning of the next century—even if the economy performs below expectations and unfavorable demographics are assumed. By 2010, the surplus is projected to soar to more than $5 trillion, then to $10 trillion by 2020 before peaking at $20 trillion in the 2040s.

The challenge facing American government is illustrated by the accompanying chart. It shows that an enormous amount of funds must be accumulated to pay off the promises being made to existing workers and their children.

And one doesn't have to be a cynic to see how tempting it will be for politicians to spend "surplus funds" that won't be needed for nearly 60 years. Who believes they will be able to resist handing out new benefits when a $20 trillion surplus will accumulate in OASDI funds if they forbear? In today's terms, that would be like asking Congress not to tamper with an OASDI balance of more than $1 trillion.

If Congress refuses to undo what it did in 1983, probably the only way that today's workers and their children can be assured that Social Security promises will be honored is through passage of a constitutional amendment. Such an amendment will have to forbid Congress from distributing OASDI funds without the consent of those who provided them.

But the problems do not end there. They only begin, and some are quite surprising given the fiscal concerns that dominate political dialogue today. The first vexing problem is: How does the government invest $20 trillion without violating traditional boundaries between the public and private sectors?

Under current law, the treasury secretary, the secretary of health and human services, and the secretary of labor are the trustees of OASDI funds. They must invest any cash balances in the funds in U.S. Treasury securities. With the U.S. debt held by nonfederal entities at more than $1.1 trillion and with less than $30 billion in OASDI assets, limited investment choices have not been a problem. But they will be a problem unless the government commits itself to 40 years of large federal deficits in the non-OASDI portions of the budget. Otherwise, there will not be enough Treasury debt to purchase!

What, then, will we do with a growing, massive federal surplus? The options are not attractive. One choice would be to buy publicly traded stocks. But even this has limited possibilities. Right now, the New York Stock Exchange has a market value of less than $3 trillion. And so we really want cabinet officers deciding which Fortune 1000 companies the federal government will take over by buying controlling interests? It may, in fact, be possible for the government to own all of them. There are many opportunities for manipulation. It's possible to imagine Congress and the administration being lobbied by shareholders in certain concerns to buy their shares rather than those of other companies. Bonds do not offer a way out either. While purchasing bonds avoids direct-ownership problems, there will not be enough bonds to go around in 2010 either.

The reason this dangerous accumulation was created is simple: politics. In 1982, the Social Security Commission, whose members were chosen by congressional leaders and the president, decided that any solution it recommended would leave no chance that Congress would ever face another OASDI funding shortage in this century. That meant contingency planning, assuming the worst was going to happen. The commission concluded that OASDI needed an increase in cash flow during the 1980s equal to $175 billion to $200 billion, an average of $25 billion a year. This was nearly three times the needed increase estimated by the SSA in 1982.

Another way to visualize this is to consider what the negative each flow would have been, assuming a continuation of prior experience. During 1982, which was a poor year for OADSI due to the recession, the funds lost $11 billion. If the recession had continued throughout the 1980s, the funds would have lost about $11 billion a year for seven years, a total of $77 billion. Assuming that the recession was going to last longer than the Great Depression of the 1930s is certainly cautious planning. The commission can be excused for not anticipating the robust recovery already under way. But was it necessary to increase the estimate for needed cash almost threefold even if one extrapolates bad times into the future?

The Social Security Administration didn't think so. In its annual report to Congress in 1982, it forecast that checkbook balances in OASDI would drop, under its likely but pessimistic scenario, from a positive $19 billion to a negative $54 billion in 1989. This $73 billion drop is a serious shortage, but it was only a fraction of the $175 billion to $200 billion that the commission chose as its baseline.

Congress' own budget office didn't believe $175 billion to $200 billion was needed either. In November 1982, the Congressional Budget Office projected OASDI balances through 1989. Its forecast showed that the combined checkbook balances would fall even less—to a negative $29 billion in 1989, unless Congress acted. The effect of political over-caution was to generate a power curve toward a $20 trillion dilemma.

We must see that the huge fund buildup engineered by the Social Security Commission never takes place. If $20 trillion never accumulates, we won't have to worry about breaking commitments by future raids on OASDI. And we won't have to invest it. To do so, however, a contract must be reached with today's workers. In exchange for permanently reducing their OASDI taxes, workers under 50 years of age must agree to lower their claims on OASDI benefits during the 21st century.

How could this be accomplished? One sound suggestion is to expand the use of IRAs or comparable savings vehicles to individuals under certain conditions. The chief condition is that favorable tax treatment of deposits into such accounts be linked to reduced OASDI benefits received at retirement. One approach would be to reduce benefits by 1% for a specified level of deposits. Chances are, millions would leap at the opportunity. Since skepticism remains deep, especially among the young, over whether benefits ever will be collected, it should be an appealing offer to give up 1% of nothing

and get a tax break now and for years to come.

A final note: If the economy performs better than expected—and the odds of that happening equal the odds assumed by the commission that it will perform below expectations—the surplus projected by the SSA for 75 years from now is $73 trillion. And the administration, taking account of the current recovery, has released figures showing an even more favorable trend. Meanwhile, the bipartisan group composed of congressional and administration representatives that is working on the fiscal 1985 budget, which begins next Oct. 1, was quick to agree on just one thing: Don't tamper with the Social Security compromise.

Long-Range Projections of Social Security Trust Fund Operations in Dollars

(By Harry C. Ballantyne, A.S.A. Chief Actuary)

Some interest has been expressed in the dollar values of the estimated long-range projections of the operations of the combined Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds as well as the operations of the combined OASI, DI, and Hospital Insurance (HI) Trust Funds. Long-range projections typically are not shown as dollar amounts because of the noncomparability of such monetary units over time when inflation is taken into account. Instead, relative measures which are comparable over time have been developed. Two examples of such measures are cost rates and income rates, which express the cost and income of the program as percentages of taxable payroll. Another is the trust fund ratio, which expresses the assets of the Trust Funds as a proportion of the outgo during a specific period of time, usually the next year. These measures are discussed fully in the "1983 Annual Report, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds" [1] (1983 OASDI Trustees Report). They are the ones that have been used by Social Security program planners and legislators to evaluate the long-range status of the program and the long-range effect of proposed changes to the program. Nonetheless, in view of the interest that continues to be expressed in long-range dollar values, this note presents long-range OASDI projections in current dollars together with several indices which can be used ot convert current dollars into constant dollars. In addition, the Appendix to this note presents financial projections of a more limited nature for the HI program and for the combined OASDI and HI programs.

Table 1 shows projections of the operations of the combined OASI and DI Trust Funds—that is, assets at the beginning of the year, tax income, total income, outgo, and assets at the end of the year. The footnotes in the table define these items. The projections are based on four sets of economic and demographic assumptions identified as Alternatives I, II-A, II-B, and III, which are described in detail in the 1983 OASDI Trustees Report. The projections of all these financial items are shown in current dollars.

A major consideration in converting current dollars to constant dollars is the selection of the index of conversion. Price indices adjust for the effects of price inflation. One price index presented in this note is the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), which is published by the Bureau of Labor Statistics, Department of Labor. The CPI-W was chosen mainly because it is used to determine automatic increases in OASDI benefits. Another price index presented is the Implicit Price Deflator for the Gross National Product, hereafter referred to as the GNP deflator. Also shown are the GNP values themselves.

Wage indices adjust for the combined effects of price inflation and real-wage growth. The particular wage index presented in this note is the average annual amount of total wages. This wage series is used to adjust many of the Social Security program amounts that are subject to automatic adjustment (such as the contribution and benefit base).

Payroll indices adjust for the effects of variations in the number of workers as well as for the effect of price inflation and real-wage growth. This note presents the OASDI taxable payroll, which consists of all earnings subject to OASDI tax rates (including deemed wages based on military service), adjusted to reflect the lower tax rates (in comparison with the combined employee-employer rate) which apply to self-employment income through 1983, tips, and multiple-employer "excess wages."

The application of an interest rate is another way of converting dollar values through time. The selection of an interest rate can be based on many types of investments, such as those by individuals, groups, or the Social Security trust funds. The particular series of interest-rate indices presented in this note is based on the interest rates for special public-debt obligations issuable to the Social Security trust funds, which form the basis of the interest calculations done for the 1983 OASDI Trustees Report.

The CPI-W, after several years of varying increases, is assumed to increase annually by rates of 2, 3, 4, and 5 percent under alternatives I, II-A, II-B, and III, respectively. Similarly, the average annual wage is assumed to increase by 4.5, 5, 5.5, and 6 percent. After the first few years, no specific assumption is made about GNP growth; rather its projection is based on the complex interaction of many economic and demographic variables. Similarly, the projection of payroll growth is based on the interaction of many economic and demographic variables. Appendix A of the 1983 OASDI Trustees Report discusses the payroll projections more fully. The ultimate interest rate assumed is 5.06, 5.575, 6.08, and 6.575 percent under Alternatives, I, II-A, II-B, and III, respectively. These assumptions are the result of the compound effect of the ultimate annual increases assumed for the CPI-W (2, 3, 4, and 5 percent) with the respective ultimate real-interest rate assumptions (3, 2.5, 2, and 1.5 percent).

Table 2 shows these economic variables or functions thereof. The form of these tables is similar to that of the tables on Trust Fund operations in order to facilitate constant-dollar calculations that may be of interest to economic and financial analysts. It is left to the individual analyst to decide which variable to use to accomplish his or her particular purpose.

[1] House Document No. 98-74, dated June 27, 1983.

TABLE 1.—PROJECTIONS OF THE OPERATIONS OF OASI AND DI TRUST FUNDS FOR 1983–2060 BY ALTERNATIVE

[In billions of dollars]

Calendar	Assets at beginning of year [1]	Tax income [2]	Total income [3]	Outgo [4]	Assets at end of year [1]
Alternative I:					
1983	24.8	163.7	172.5	169.3	27.9
1984	40.4	181.9	183.2	179.9	30.2
1985	44.1	200.2	202.0	191.0	39.6
1986	54.8	216.4	219.3	203.6	46.2
1987	62.6	233.4	237.3	215.4	67.4
1988	85.9	265.6	271.2	227.2	111.4
1989	131.5	283.3	291.5	232.7	170.2
1990	192.0	311.2	322.5	249.8	242.9
1991	266.2	330.3	345.5	255.9	332.5
1992	357.3	354.8	374.5	272.0	435.1
1993	463.9	377.5	402.6	275.0	562.6
1994	593.1	399.3	430.6	283.9	709.3
1995	741.5	421.5	460.6	293.5	876.5
1996	910.5	445.1	493.0	303.7	1,065.8
1997	1,101.7	470.1	527.9	314.5	1,279.2
1998	1,317.1	496.4	565.4	327.4	1,517.3
1999	1,557.3	524.5	605.9	341.1	1,782.1
2000	1,824.5	554.3	649.4	355.6	2,075.9
2001	2,120.6	584.5	694.8	371.2	2,399.5
2002	2,446.6	615.9	743.0	388.2	2,754.4
2003	2,803.9	649.0	794.4	406.9	3,141.9
2004	3,194.1	683.9	849.3	427.2	3,563.9
2005	3,619.0	720.4	907.5	449.3	4,022.1
2006	4,080.0	758.0	968.6	473.7	4,517.1
2007	4,577.9	796.9	1,032.9	500.5	5,049.5

TABLE 1.—PROJECTIONS OF THE OPERATIONS OF OASI AND DI TRUST FUNDS FOR 1983–2060 BY ALTERNATIVE—Continued

[In billions of dollars]

Calendar	Assets at beginning of year [1]	Tax income [2]	Total income [3]	Outgo [4]	Assets at end of year [1]
2010	6,300.3	923.4	1,246.8	597.2	6,879.5
2015	9,960.2	1,171.9	1,679.8	833.2	10,717.9
2020	14,644.2	1,483.6	2,227.0	1,160.2	15,598.8
2025	20,545.4	1,887.8	2,928.1	1,574.9	21,756.3
2030	28,131.8	2,412.2	3,835.3	2,058.8	29,726.8
2035	38,218.7	3,089.1	5,022.9	2,621.3	40,388.2
2040	52,029.1	3,953.7	6,588.9	3,250.3	55,070.5
2045	71,223.2	5,065.5	8,675.5	4,049.1	75,468.9
2050	97,672.3	6,499.0	11,450.8	5,124.7	103,509.7
2055	133,691.3	8,354.7	15,132.7	6,552.8	141,642.7
2060	182,502.1	10,742.1	19,995.0	8,370.6	193,318.2
Alternative II–A:					
1983	24.8	163.6	172.3	169.5	27.6
1984	40.0	180.8	182.1	180.3	28.8
1985	42.6	197.5	198.9	192.2	35.6
1986	50.5	212.2	214.3	205.6	39.5
1987	55.5	227.9	230.9	218.3	45.3
1988	63.2	258.6	262.8	231.1	76.8
1989	96.3	278.5	284.7	243.8	117.6
1990	139.0	304.6	313.4	257.2	173.8
1991	196.6	324.7	336.7	271.3	239.3
1992	263.4	345.8	361.7	285.9	315.1
1993	343.1	368.3	388.3	297.7	405.7
1994	435.4	390.4	415.2	310.3	510.6
1995	542.1	414.0	444.9	323.6	631.9
1996	665.3	439.0	477.0	337.7	771.2
1997	806.6	465.6	511.7	352.7	930.2
1998	967.8	493.8	549.1	369.8	1,109.5
1999	1,149.3	523.9	589.5	388.0	1,311.0
2000	1,353.3	556.0	633.1	407.3	1,536.8
2001	1,581.6	588.7	678.8	427.9	1,787.8
2002	1,835.2	623.0	727.4	450.1	2,065.1
2003	2,115.3	659.2	779.4	474.5	2,369.9
2004	2,423.0	697.4	834.9	501.1	2,703.8
2005	2,759.9	737.4	893.9	529.9	3,067.8
2006	3,127.0	778.8	955.8	561.4	3,462.2
2007	3,524.6	821.7	1,020.9	596.0	3,887.1
2010	4,901.6	961.7	1,237.5	720.9	5,345.2
2015	7,776.7	1,238.5	1,672.6	1,027.8	8,328.0
2020	11,240.2	1,587.4	2,210.7	1,465.9	11,865.7
2025	15,168.0	2,038.2	2,875.1	2,047.0	15,843.6
2030	19,553.3	2,621.6	3,696.9	2,762.1	20,292.8
2035	24,556.1	3,374.0	4,721.8	3,638.4	25,388.8
2040	30,529.3	4,332.9	6,008.0	4,660.2	31,555.6
2045	37,993.2	5,563.3	7,647.2	5,970.2	39,258.1
2050	47,163.6	7,142.5	9,726.7	7,713.7	48,647.5
2055	58,063.1	9,185.0	12,361.7	10,002.4	59,742.3
2060	70,877.9	11,815.6	15,688.4	12,903.4	72,788.3
Alternative II–B:					
1983	24.8	163.4	172.2	169.5	27.5
1984	39.8	179.8	180.9	180.3	27.6
1985	41.4	197.4	198.7	193.8	32.5
1986	47.5	212.9	214.5	209.9	36.1
1987	52.1	229.1	231.2	225.2	39.7
1988	57.7	260.3	263.4	240.8	53.9
1989	73.5	280.4	285.1	256.5	82.4
1990	103.9	307.0	313.8	272.7	123.5
1991	146.5	329.1	338.6	289.8	172.3
1992	196.8	353.0	365.6	307.7	230.2
1993	258.8	376.4	392.4	322.6	300.1
1994	330.5	400.2	420.3	338.4	382.0
1995	414.3	425.6	451.0	355.2	477.7
1996	512.1	452.9	484.4	372.9	589.2
1997	625.8	482.1	520.7	391.7	718.1
1998	757.1	513.1	559.8	413.0	864.9
1999	906.4	546.4	602.3	435.6	1,031.6
2000	1,075.7	581.8	648.2	459.7	1,220.0
2001	1,267.0	618.5	696.6	485.2	1,431.4
2002	1,481.3	657.0	748.4	512.7	1,667.1
2003	1,720.1	698.3	804.3	543.0	1,928.5
2004	1,984.8	742.2	864.5	575.8	2,217.1
2005	2,277.0	788.5	928.6	611.5	2,534.3
2006	2,597.7	836.6	996.3	650.5	2,880.1
2007	2,947.3	886.8	1,067.7	693.3	3,254.5
2010	4,168.1	1,052.3	1,307.0	848.3	4,547.1
2015	6,715.1	1,387.5	1,794.0	1,233.3	7,171.2
2020	9,666.0	1,821.0	2,401.1	1,797.5	10,133.2
2025	12,706.6	2,394.6	3,151.0	2,570.8	13,108.3
2030	15,549.9	3,154.7	4,073.8	3,560.0	15,829.5
2035	17,981.0	4,158.9	5,213.8	4,814.0	18,073.0
2040	19,883.6	5,470.6	6,629.2	6,329.1	19,779.5
2045	21,175.2	7,192.5	8,414.2	8,309.0	20,749.9
2050	21,095.0	9,454.9	10,649.1	10,989.8	20,057.1
2055	18,161.4	12,449.6	13,434.1	14,583.1	16,094.7
2060	10,445.2	16,399.1	16,874.9	19,263.6	6,847.9
Alternative III:					
1983	24.8	162.2	171.0	169.6	26.2
1984	38.1	175.5	176.3	180.5	21.9
1985	35.3	194.9	195.5	193.2	24.2
1986	39.2	213.7	214.8	206.8	32.2
1987	48.5	233.0	234.8	227.4	27.2
1988	45.7	267.8	270.9	247.0	51.1
1989	71.4	290.7	295.9	267.0	80.0
1990	102.4	320.6	328.3	287.6	130.8
1991	144.8	346.3	356.4	324.6	152.6
1992	178.3	372.9	385.1	348.0	189.7
1993	220.0	399.6	414.0	368.7	234.9
1994	267.2	426.5	443.1	390.8	287.3
1995	321.7	355.3	475.5	414.3	348.5
1996	385.3	486.9	511.3	439.3	420.6
1997	460.0	520.7	550.2	465.8	504.9
1998	547.1	557.0	592.2	495.2	601.9

TABLE 1.—PROJECTIONS OF THE OPERATIONS OF OASI AND DI TRUST FUNDS FOR 1983–2060 BY ALTERNATIVE—Continued

[In billions of dollars]

Calendar	Assets at beginning of year [1]	Tax income [2]	Total income [3]	Outgo [4]	Assets at end of year [1]
1999	647.0	595.9	637.7	526.7	712.8
2000	761.0	637.3	686.7	560.4	839.1
2001	890.6	680.5	738.4	596.3	981.2
2002	1,036.2	726.1	793.5	634.9	1,139.8
2003	1,198.4	775.0	853.1	677.5	1,315.4
2004	1,378.0	827.1	916.9	723.8	1,508.5
2005	1,575.2	882.0	984.7	774.4	1,718.8
2006	1,789.8	939.2	1,055.8	829.6	1,945.0
2007	2,020.5	998.9	1,130.4	890.0	2,185.4
2010	2,788.6	1,196.5	1,376.7	1,110.1	2,965.0
2015	4,075.0	1,595.5	1,853.5	1,661.6	4,147.3
2020	4,588.6	2,109.9	2,388.8	2,496.2	4,324.5
2025	2,975.8	2,783.2	2,936.1	3,689.5	2,017.4
2030	−2,755.1	3,665.6	3,413.9	5,300.5	−4,909.5
2035	−15,493.8	4,818.2	3,691.4	7,448.5	−19,600.5
2040	−39,412.4	6,303.3	3,556.4	10,184.3	−46,494.9
2045	−80,635.1	8,224.2	2,702.0	13,839.0	−92,361.8
2050	−149,050.5	10,701.9	590.0	18,788.0	−168,012.7
2055	−259,529.8	13,938.3	−3,560.7	25,364.8	−289,447.1
2060	−433,124.5	18,159.2	−10,911.8	33,872.7	−479,197.9

[1] Assets at the end of the calendar year are the total monies in the OASI and DI Trust Funds at that time, including the net effect of interfund loans and the payments to and reimbursements for the noninsured persons described below. Assets at the beginning of the calendar year are the assets at the end of the prior year increased by the advanced tax transfers for January. Both columns of assets reflect interfund-borrowing transfers which are not included in either the income or outgo figures.

[2] Tax income consists of net OASDI payroll taxes and, after 1983, taxes on benefits; for 1983 it includes the amount transferred from the general fund of the Treasury to the OASI and DI Trust Funds on May 20, 1983, for costs of noncontributory wage credits for military service performed before 1957.

[3] Total income consists of tax income, interest income, and payments from the general fund of the Treasury for costs of benefits paid to certain noninsured persons who attained age 72 before 1968 and have less than three quarters of coverage.

[4] Outgo consists of benefits payments, administrative expenses, net transfers under the financial interchange between the OASI and DI Trust Funds and the Railroad Retirement Account, payments for vocational rehabilitation services for disabled beneficiaries, and payments to the noninsured persons described above.

TABLE 2.—SELECTED ECONOMIC VARIABLES FOR 1982–2060 BY ALTERNATIVE

[GNP and taxable payroll in billions]

Calendar year	CPI [1]	GNP deflator [2]	GNP	Average wage [3]	Taxable payroll [4]	Compound interest rate factor [5]
Alternative I:						
1982	97.53	96.71	$3,059	$14,498	$1,341	0.8964
1983	100.00	100.00	3,271	15,137	1,477	1.0000
1984	103.28	104.00	3,595	15,799	1,594	1.0813
1985	107.10	108.16	3,929	16,624	1,735	1.1482
1986	110.65	111.75	4,243	17,542	1,872	1.2117
1987	113.96	115.10	4,567	18,537	2,016	1.2773
1988	117.03	118.21	4,902	19,537	2,163	1.3451
1989	119.74	120.93	5,240	20,549	2,294	1.4149
1990	122.14	123.34	5,585	21,607	2,461	1.4867
1991	124.57	125.82	5,954	22,744	2,605	1.5619
1992	127.07	128.33	6,340	23,920	2,799	1.6409
1993	129.60	130.89	6,746	25,092	2,973	1.7239
1994	132.21	133.51	7,122	26,272	3,144	1.8112
1995	134.84	136.18	7,519	27,454	3,320	1.9028
1996	137.55	138.90	7,943	28,689	3,507	1.9991
1997	140.28	141.68	8,387	29,980	3,704	2.1003
1998	143.09	144.51	8,858	31,329	3,913	2.2065
1999	145.96	147.40	9,359	32,739	4,135	2.3182
2000	148.87	150.35	9,890	34,212	4,370	2.4355
2001	151.88	153.36	10,428	35,752	4,608	2.5587
2002	154.88	156.43	10,989	37,361	4,856	2.6882
2003	157.99	159.55	11,580	39,042	5,117	2.8242
2004	161.17	162.74	12,202	40,799	5,391	2.9671
2005	164.38	166.00	12,857	42,635	5,678	3.1173
2006	167.66	169.32	13,531	44,554	5,973	3.2750
2007	171.00	172.71	14,228	46,558	6,278	3.4407
2010	181.48	183.28	16,484	53,131	7,264	3.9899
2015	200.37	202.35	20,918	66,211	9,184	5.1068
2020	221.22	223.41	26,500	82,511	11,579	6.5363
2025	244.27	246.67	33,767	102,823	14,683	8.3660
2030	269.69	272.34	43,265	128,137	18,723	10.7080
2035	297.74	300.69	55,622	159,681	23,956	13.7055
2040	328.73	331.98	71,545	198,992	30,667	17.5421
2045	362.96	366.53	92,110	247,980	39,294	22.4527
2050	400.74	404.68	118,810	309,029	50,443	28.7379
2055	442.45	446.80	153,500	385,106	64,861	36.7825
2060	488.48	499.31	198,355	479,912	83,417	47.0792
Alternative II–A:						
1982	97.37	96.52	3,059	14,498	1,341	.8963
1983	100.00	100.00	3,268	15,134	1,475	1.0000
1984	103.61	104.30	3,573	15,761	1,584	1.0827
1985	107.76	108.78	3,879	16,519	1,710	1.1521
1986	111.64	112.70	4,179	17,358	1,835	1.2192
1987	115.22	116.30	4,485	18,258	1,967	1.2887
1988	118.69	119.79	4,804	19,181	2,104	1.3614
1989	122.23	123.39	5,146	20,205	2,255	1.4373
1990	125.91	127.09	5,499	21,328	2,403	1.5174
1991	129.69	130.90	5,844	22,481	2,558	1.6020
1992	133.57	134.83	6,216	23,678	2,720	1.6913
1993	137.58	138.88	6,624	24,910	2,893	1.7856
1994	141.70	143.04	7,023	26,155	3,065	1.8852
1995	145.95	147.33	7,451	27,463	3,250	1.9902
1996	150.34	151.75	7,911	28,836	3,447	2.1012
1997	154.86	156.30	8,398	30,278	3,657	2.2183
1998	159.48	160.99	8,914	31,792	3,879	2.3420
1999	164.27	165.82	9,467	33,381	4,116	2.4726
2000	169.20	170.80	10,055	35,051	4,369	2.6104
2001	174.29	175.92	10,656	38,803	4,626	2.7560
2002	179.52	181.20	11,288	38,643	4,895	2.9096
2003	184.89	186.64	11,953	40,575	5,178	3.0718
2004	190.45	192.23	12,657	42,604	5,478	3.2431

TABLE 2.—SELECTED ECONOMIC VARIABLES FOR 1982–2060 BY ALTERNATIVE—Continued

[GNP and taxable payroll in billions]

Calendar year	CPI [1]	GNP deflator [2]	GNP	Average wage [3]	Taxable payroll [4]	Compound interest rate factor [5]
2005	196.15	198.00	13,399	44,734	5,791	3.4239
2006	202.02	203.94	14,166	46,971	6,114	3.6148
2007	208.10	210.06	14,963	49,320	6,448	3.8163
2010	227.40	229.54	17,554	57,094	7,534	4.4908
2015	263.60	266.10	22,692	72,868	9,657	5.8902
2020	305.60	308.48	29,206	93,000	12,311	7.7256
2025	354.28	357.61	37,669	118,694	15,728	10.1330
2030	410.70	414.57	48,731	151,486	20,153	13.2906
2035	476.11	480.60	63,148	193,339	25,868	17.4321
2040	551.96	557.15	81,759	246,755	33,176	22.8642
2045	639.84	645.88	105,833	314,929	42,538	29.9890
2050	741.77	748.76	137,121	401,939	54,594	39.3339
2055	859.92	868.02	177,928	512,987	70,174	51.5908
2060	996.86	1,006.27	231,024	654,716	90,257	67.6671
Alternative II–B:						
1982	97.01	96.01	3,059	14,498	1,341	.8963
1983	100.00	100.00	3,263	15,166	1,475	1.0000
1984	104.44	104.44	3,548	15,741	1,575	1.0852
1985	109.98	109.99	3,877	16,596	1,710	1.1620
1986	115.26	115.27	4,189	17,527	1,840	1.2420
1987	120.34	120.34	4,505	18,521	1,977	1.3242
1988	125.28	125.27	4,831	19,525	2,117	1.4087
1989	130.29	130.28	5,175	20,588	2,269	1.4981
1990	135.50	135.49	5,544	21,744	2,420	1.5930
1991	140.91	140.91	5,938	22,973	2,591	1.6921
1992	146.55	146.55	6,359	24,271	2,773	1.7973
1993	152.40	152.41	6,791	25,606	2,952	1.9078
1994	158.49	158.51	7,219	27,014	3,137	2.0238
1995	164.84	164.85	7,690	28,500	3,335	2.1469
1996	171.43	171.45	8,201	30,067	3,550	2.2774
1997	178.29	178.30	8,745	31,721	3,779	2.4158
1998	185.41	185.43	9,323	33,465	4,023	2.5627
1999	192.84	192.85	9,945	35,306	4,284	2.7185
2000	200.57	200.57	10,610	37,248	4,562	2.8838
2001	208.57	208.59	11,298	39,297	4,849	3.0592
2002	216.91	216.93	12,025	41,458	5,151	3.2452
2003	225.61	225.61	12,805	43,738	5,474	3.4425
2004	234.62	234.63	13,635	46,144	5,817	3.6518
2005	244.00	244.02	14,516	48,682	6,179	3.8738
2006	253.78	253.78	15,433	51,359	6,554	4.1093
2007	263.93	263.93	16,391	54,184	6,943	4.3592
2010	296.87	296.89	19,552	63,625	8,225	5.2036
2015	361.18	361.21	25,993	83,155	10,793	6.9899
2020	439.43	439.46	34,410	108,680	14,085	9.3895
2025	534.66	534.67	45,650	142,041	18,420	12.6127
2030	650.59	650.51	60,753	185,642	24,168	16.9425
2035	791.43	791.45	80,993	242,626	31,765	22.7585
2040	962.89	962.92	107,889	317,103	41,717	30.5712
2045	1,171.50	1,171.53	143,656	414,441	54,765	41.0658
2050	1,425.28	1,425.35	191,467	541,658	71,964	55.1630
2055	1,734.08	1,734.16	255,582	707,925	94,714	74.0995
2060	2,109.78	2,109.87	341,394	925,230	124,739	99.5367
Alternative III:						
1982	96.78	95.76	3,059	14,498	1,341	.8963
1983	100.00	100.00	3,211	15,082	1,459	1.0000
1984	106.37	105.98	3,463	15,663	1,536	1.0891
1985	114.59	113.80	3,864	16,789	1,690	1.1784
1986	123.00	121.92	4,268	18,020	1,849	1.2842
1987	130.38	129.06	4,640	19,236	2,012	1.4002
1988	137.56	136.11	5,025	20,464	2,179	1.5201
1989	144.60	143.08	5,425	21,737	2,354	1.6433
1990	151.84	150.23	5,850	23,105	2,527	1.7696
1991	159.42	157.74	6,301	24,565	2,722	1.8976
1992	167.40	165.63	6,780	26,082	2,923	2.0270
1993	175.75	173.91	7,273	27,673	3,126	2.1619
1994	184.54	182.60	7,767	29,333	3,335	2.3040
1995	193.80	191.73	8,309	31,093	3,558	2.4555
1996	203.49	201.32	8,913	32,959	3,805	2.6170
1997	213.65	211.38	9,557	34,936	4,070	2.7890
1998	224.31	221.95	10,249	37,032	4,353	2.9724
1999	235.55	233.05	10,993	39,254	4,657	3.1679
2000	247.32	244.70	11,789	41,609	4,980	3.3761
2001	259.69	256.94	12,622	44,106	5,317	3.5981
2002	272.67	269.78	13,502	46,752	5,617	3.8347
2003	286.32	283.27	14,451	49,558	6,053	4.0868
2004	300.64	297.43	15,462	52,531	6,457	4.3555
2005	315.66	312.31	16,538	55,683	6,884	4.6419
2006	331.42	327.92	17,659	59,024	7,326	4.9471
2007	348.02	344.32	18,834	62,565	7,787	5.2724
2010	402.85	398.59	22,725	74,516	9,305	6.3823
2015	514.15	508.72	30,652	99,719	12,329	8.7751
2020	656.24	649.26	40,983	133,447	16,174	12.0650
2025	837.53	828.65	54,632	178,582	21,155	16.5884
2030	1,068.91	1,057.58	72,757	238,984	27,646	22.8077
2035	1,364.25	1,349.78	96,762	319,814	36,079	31.3587
2040	1,741.15	1,722.69	128,237	427,983	46,921	43.1156
2045	2,222.20	2,198.64	169,481	572,738	60,856	59.2805
2050	2,836.15	2,806.08	223,830	766,453	78,873	81.5058
2055	3,619.72	3,581.35	296,003	1,025,686	102,365	112.0638
2060	4,619.79	4,570.82	391,956	1,372,600	133,029	154.0785

[1] The CPI is a modification of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) as defined by the Bureau of Labor Statistics (BLS), Department of Labor. The CPI-W is the index on which OASDI automatic benefit increases are based. For a given year, the modification divides the average of the 12 monthly CPI-W values by the analogous 1983 value and multiplies the result by 100, thereby initializing the CPI-W at 100 in 1983.

[2] The GNP deflator is a modification of the implicit Price Deflator for Gross National Product as defined by BLS; the modification initializes the implicit Price Deflator for GNP at 100 in 1983.

[3] Average wage is the average annual amount of total wages; it is the index used in the calculations of initial benefits and the contribution and benefit base.

[4] Taxable payroll consists of total earnings subject to taxes credited to the OASI and DI Trust Funds, including deemed wages based on military service; these earnings are adjusted to reflect the lower effective tax rates (compared to the combined employee-employer rate) which apply to tips, multiple-employer "excess wages," and self-employment income through 1983.

[5] The compound interest-rate factor is based on the interest rates for special public-debt obligations issuable to the OASI and DI Trust Funds. Each can be used to convert dollar values between July 1, 1983, and July 1 of the year shown.

APPENDIX

This appendix presents OASDI and HI tax income and outgo as projected under Alternative II-B. The projections shown are more limited than the OASDI projections shown in the main part of this note because more detailed 75-year HI projections are not available. The reason for this unavailability of long-range HI projections is that the standard HI projection period is 25 years. In addition, negative assets are not projected for the HI program. Therefore, for example, because the HI Trust Fund is projected to be exhausted in 1990 under Alternative II-B, projected combined assets for OASDI and HI thereafter are unavilable. Consequently, because projections of assets are available for only such limited number of years, they have been omitted from this presentation. Similarly, because estimates of negative income are unavailable, projections of net interest income have been omitted.

The following table shows the tax income and outgo projected under Alternative II-B for the OASDI, HI, and the combined OASDI and HI programs. The footnotes in the table define these items. The form of this table is similar to that of table 7 in the main part of this note in order to facilitate constant-dollar calculations that may be of interest to economic and financial analysts.

APPENDIX TABLE.—OASDI, HI, AND COMBINED OASDI AND HI TAX INCOME AND OUTGO PROJECTED UNDER ALTERNATIVE II-B, CALENDAR YEARS 1983–2055

[In billions of dollars]

Calendar year	OASDI		HI		Total	
	Tax income [1]	Outgo [2]	Tax income [3]	Outgo [4]	Tax income	Outgo
1983	163.4	169.5	38.3	40.8	201.7	210.3
1984	179.8	180.3	42.9	45.7	222.7	226.0
1985	197.4	193.8	48.2	51.4	245.6	245.2
1986	212.9	209.9	55.5	57.3	268.4	267.2
1987	229.1	225.2	59.5	63.6	288.6	288.8
1988	260.3	240.8	63.6	70.6	323.9	311.4
1989	280.4	256.5	68.0	78.1	348.4	334.6
1990	307.0	272.7	72.4	86.4	379.4	359.1
1991	329.1	289.8	77.4	95.2	406.5	385.0
1992	353.0	307.7	82.6	104.9	435.6	412.6
1993	376.4	322.6	87.9	115.2	464.3	437.8
1994	400.2	338.4	93.3	126.1	493.5	464.5
1995	425.6	355.2	99.0	138.3	524.6	493.5
1996	452.9	372.9	105.4	151.6	558.3	524.5
1997	482.1	391.7	112.2	165.2	594.3	556.9
1998	513.1	413.0	119.4	180.3	632.5	593.3
1999	546.4	435.6	127.1	196.4	673.5	632.0
2000	581.8	459.7	135.3	213.7	717.1	673.4
2001	618.5	485.2	143.7	232.5	762.2	717.7
2002	657.0	512.7	152.6	252.0	809.6	764.7
2003	698.3	543.0	162.0	273.7	860.3	816.7
2004	742.2	575.8	171.9	297.1	914.1	872.9
2005	788.5	611.5	182.4	322.7	970.9	934.2
2006	836.6	650.5	193.4	350.2	1,030.0	1,000.7
2007	886.8	693.3	204.8	380.7	1,091.6	1,074.0
2010	1,052.3	848.3	242.3	468.8	1,294.6	1,317.1
2015	1,387.5	1,233.3	317.6	681.2	1,705.1	1,914.5
2020	1,821.0	1,797.5	414.2	999.7	2,235.2	2,797.2
2025	2,394.6	2,570.8	541.5	1,473.3	2,936.1	4,044.1
2030	3,154.7	3,560.0	710.7	2,119.9	3,865.4	5,679.9
2035	4,158.9	4,814.0	934.3	2,931.7	5,093.2	7,745.7
2040	5,470.6	6,329.1	1,227.1	3,930.9	6,697.7	10,260.0
2045	7,192.5	8,309.0	1,610.7	5,176.6	8,803.2	13,485.6
2050	9,454.9	10,989.8	2,116.2	6,822.9	11,571.1	17,812.7
2055	12,449.6	14,583.1	2,784.9	8,998.0	15,234.5	23,581.1

[1] OASDI tax income consists of net OASDI payroll taxes and, after 1983, taxes on benefits; for 1983 it includes the amount transferred from the general fund of the Treasury to the OASI and DI Trust Funds on May 20, 1983, for costs of noncontributory wage credits for military service performed before 1957. The OASDI income is on a cash basis.

[2] OASDI outgo consists of benefit payments, administrative expenses, net transfers under the financial interchange between the OASI and DI Trust Funds and the Railroad Retirement Account, payments for vocational rehabilitation services for disabled beneficiaries, and payments to certain noninsured persons who attained age 72 before 1968 and have less than three quarters of coverage. The OASDI outgo is on a cash basis.

[3] HI tax income consists of HI payroll taxes (including taxes from railroad employment) and reimbursements from the general fund of the Treasury for costs of noncontributory wage credits for military service. The HI income is on an incurred basis.

[4] HI outgo consists of HI outlays for insured beneficiaries and administrative expenses. The HI outgo is on an incurred basis.●

RECESS UNTIL MONDAY, APRIL 9, 1984, AT 11 A.M.

Mr. BAKER. Mr. President, if no other Senator now seeks recognition—I see none—I move in accordance with the order previously entered that the Senate now stand in recess until the hour of 11 a.m. on Monday next.

The motion was agreed to, and at 7 p.m., the Senate recessed until Monday, April 9, 1984, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 5, 1984:

NATIONAL LABOR RELATIONS BOARD

Rosemary M. Collyer, of Colorado, to be General Counsel of the National Labor Relations Board for a term of 4 years, vice William A. Lubbers, term expiring.

CONFIRMATION

Executive nomination confirmed by the Senate April 5, 1984:

DEPARTMENT OF TRANSPORTATION

Donald D. Engen, of Virginia, to be Administrator of the Federal Aviation Administration.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.